Volume XIII.] *December, 1898.* [*Number 4.*

POLITICAL SCIENCE QUARTERLY.

IMPERIALISM?

POLITICAL events, unlike the phenomena of the physical world, can never be studied exclusively from the standpoint of descriptive and explanatory science. The ethical instinct and the ideal-creating passion will ever compel men to consider what "ought to be" in public policy, no less than to seek the causes of what has been and what is and to study the factors that are shaping what is to be. Nevertheless, without patient investigation of causes and tendencies there can be no sound philosophy of politics; and it is an unfortunate infirmity of many noble minds that in their ambition to perfect the ethical ideals of the race they neglect the humbler task of forecasting social probabilities. They do not err in assuming that a widely shared sentiment of what "ought to be" should and will be a factor in the further evolution of public interests; for this assumption is true. Their error lies in a more or less serious failure to grapple with the larger problem of the relative importance of such factors, and consequently in a more or less complete failure to perceive what is reasonably to be expected as the actual outcome of the struggle of competing or co-operating influences regarded as a whole.

This is unfortunate, because often it results in a waste or misdirection of the intellectual energies of the wisest men in the community. So intent are they upon their notion of what ought to be, so blind are they at times to what probably will be,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

that they give us no real aid in adapting ourselves to inevitable conditions. In battling for the impossible long after they should see its impossibility, they leave us without guidance in making the best of circumstances as they are — in adjusting our lives to what cannot be helped.

With much reluctance, and with a painful feeling that I am opposed to men whose opinions I have long held in deep respect, I have been forced to the conclusion that a melancholy example of the mistake that I have just described has recently been afforded in the discussion of the war between the United States and Spain, and is now being afforded in the further discussion of the future policy of the United States. The attitude of nearly every conservative political thinker who has approached the subject in a philosophical temper has been that of moral opposition to the war. With few exceptions, the same thinkers are now vigorously opposing all territorial expansion and are especially earnest in their antagonism to the retention of the Philippine Islands by the United States. The purpose of the present article is to show that this opposition, although it springs from conscientious convictions and is backed by arguments that deserve thoughtful consideration, is probably as futile as opposition to the trade wind or the storm. There are not lacking reasons for thinking that the war with Spain was as inevitable as any event of nature and that, at this particular stage in the development of the United States, territorial expansion is as certain as the advent of spring after winter.

If these hypotheses are sound, it follows that our wise men should discontinue their idle contention against cosmic law and should address themselves to the practical question : How can the American people best adapt themselves to their new responsibilities ?

These assertions must, of course, be proved. The alleged reasons must be named. It is idle to say that the war with Spain could not have been prevented, or that territorial expansion is a matter of destiny, unless there is an array of impregnable facts to support such propositions.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

I.

Why, then, should we entertain the proposition that the Spanish War was inevitable? The very men who have most vehemently declared that the war ought not to have occurred have partly answered this question: they have marshalled much proof that hostilities could not have been averted. They have told us that the war was brought on by jingoes and yellow journals, aided and abetted by the combative instincts that express themselves in college athletics. For many years past, they have assured us, an uneasy element in the American population had been eager to engage in blood-letting. The peaceful pursuits of industry, professional life and scholarship had become wearisome to men of this kind. A new excitement was necessary to give vent to their pent-up feelings. In Congress the Morgans, the Cabot Lodges and the Forakers had clamored for a foe. They had feared to see the American people lose its fighting qualities. They had dreaded the day when we should cease to be manly and become "supine." Our educators had feared that mere intellectual struggles would leave our youth anæmic bookworms, unfit for the serious work of practical politics. The yellow journalists, having worked the field of crime and scandal to the point of diminishing returns, had been obliged to cast about for new sensations; and what material could be found more profitable to the purveyor of extras than news of battle? All these people, we have been told, in the bottom of their hearts really wanted war — war to develop American character, war to afford an outlet to American energies and genius.

Now, an amusing side of all this is that the writers and speakers who have been telling us these things have apparently been making statements that they themselves have not quite believed. Or, at least, they have been so anxious to emphasize their disapproval or even contempt of the belligerent elements in our population, that they have failed to measure in a cold-blooded way the importance of certain facts merely as facts. They seem to have supposed that they could describe a man

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

as bloodthirsty, and that then, without being ridiculous, they could argue that, if only the man were not bloodthirsty, there need not be any fighting. In fact, it seems never to have occurred to these gentlemen that, if we are a nation of jingoes, bullies and sensation lovers, it is waste of breath to talk about what might have been, if we had all been reasonable, long-suffering, diplomatic and peace-loving.

Again, these deprecators of force have assured us that, in its final outbreak, the war was merely an act of vengeance. They have said that the American people lost its senses over the destruction of the *Maine* and made no critical inquiry to ascertain whether this disaster occurred with the connivance of the Spanish government. They have asserted that the whole nation, at white heat with excitement, took up the cry of "Remember the *Maine!*" without troubling itself with any nice questions of legal evidence or, indeed, of moral probability.

Here again we must notice that those who have condemned the war on this ground have been so preoccupied with moral feeling that they have failed to see the scientific significance of the fact which they allege, when looked at merely as a fact. If the American people was indeed swept off its feet by a wave of revengeful passion that submerged both reason and conscience, it is but little more profitable to discuss the occurrence in terms of the moral imperative than to talk about the wickedness of a West Indian hurricane.

In like manner, these reasoners have alleged other facts which, if they are facts, assure our territorial expansion. It seems that we are a nation of promoters, lobbyists, boodlers, place-hunters and Indian agents. We long ago became weary of sowing and reaping, and also of legitimate trading and manufactures. We are beginning now to weary even of our protected manufactures and jobs and government contracts. The reservations allotted to our unhappy red men have nearly all been appropriated by rough riders, and we naturally turn to the sunny lands and gentle savages of Hawaii and Luzon for further practice of the Christian art of exploitation. Honolulu may not be as good a

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

field for political banking as Philadelphia has been ; and Cuba does not afford unlimited opportunities for the development of Star Route postal facilities. Nevertheless, they offer something better than an honest living, earned in the sweat of one's brow. No one has so vivid a sense of the terrible rapidity with which the world is shriveling up as those commercial sharks who "stand in" with successive administrations.

Now all these people, we are given to understand, are collectively the dominant power in American politics. They control Congresses and the political bosses. When times grow dull, they put forth every effort to secure some new outlet for their energies. For years they have been urging the annexation of Hawaii, and it now appears that they were guilty also of fomenting disturbances in Cuba. Doubtless they were the wicked ones who prompted Mr. Olney to write his famous message on the Venezuelan question, in the hope that we should evict Great Britain from some of her colonial possessions ; and they have even been suspected of designs to build (at the public expense) a stone-ballasted railroad from the Klondike to Tierra del Fuego, in anticipation of our annexation of South America. And yet, notwithstanding this complete control of our politics and government by commercial adventurers, the philosophical observers who have discovered and described the situation profess to think that territorial expansion can be prevented by carefully reasoned demonstrations — by showing that a colonial policy is likely to undermine republican institutions, destroy the simplicity of American society and conduct us on the downward road to that world of shadows where flit the historic ghosts of Carthage and the Roman Empire.

All this would be highly amusing if, as was said a moment ago, it were not so near the truth. For, in fact, these descriptions of the American people are caricatures rather than malicious inventions. Queer distortions as they are, the truth is yet visible in them, as were the features of Tweed and Sweeny in Thomas Nast's cartoons in the days of the great New York City ring.

The truth that underlies the caricature is simply this : the American population of seventy million or more souls is

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

at this moment the most stupendous reservoir of seething energy to be found on any continent. Already it has accomplished marvels of material civilization, of governmental organization, of education and even of scientific discovery. Let any reader of Mr. Wallace's *Wonderful Century*, glancing again through its pages, ask himself what proportion of the achievements therein recorded are to be credited to America and Americans, and he will see a revelation compared with which the Apocalypse is tame. And yet it is practically certain that all the things that the American has done are but earnest of the things that he is to do. If in the coming centuries this reservoir of energy can discharge itself in enterprise, in investigation and discovery, it can do more for the advancement of the human race than imagination can now conceive. If, by any mistaken policy, it is denied an outlet, it may discharge itself in anarchistic, socialistic and other destructive modes that are likely to work incalculable mischief.

This volume of human enterprise is not altogether made up of reasonableness, far-seeing wisdom and stainless morality. It is as heterogeneous as it is vast. The millions of human beings who have come to our shores from foreign lands are not all assimilated to American standards, and their new-found liberty has not altogether ceased to be license. In those other millions who are descended from an earlier American stock, the primitive human passions have not been brought under absolute control, and the love of primitive occupations that partake of danger has not been eradicated. Let us not forget that no population on the face of the earth is so largely descended from daring adventurers. It is not yet three hundred years since the colonists of our eastern coasts were performing their daily industrial tasks under the shadow of ever-threatening danger from savage foes. It is not a hundred and fifty years since the pioneers of the Ohio and Mississippi valleys were making clearings in the wilderness during intervals of exterminating warfare. It is not yet fifty years since the later pioneers of the western plains were crossing a pathless desert, in caravans that left a trail of bleaching bones to mark a route for those who

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

should follow them to the El Dorado of the West. Are we to suppose that the offspring of such men, in so short an interval, have lost those instincts that lead men to prefer enterprises that call for physical courage and resourcefulness? It is not true that we are a nation of jingoes. It is not true that we desire war for the sake of war, or that in our sports we prefer methods that are adapted to inflict injury. But it is true that we are a nation endowed with exceptional courage, that we heartily despise physical cowardice and all manner of weakness. It is true that we are restless under the disappearance of opportunity for adventure and daring enterprise. It is therefore certain that, more than most nations, we are liable to an outbreak of warlike spirit under what we conceive to be real provocation; and that no other nation is so likely as ours to turn itself into great armies and to fight with an indomitable determination to conquer, when it is once convinced of the justice of its cause.

The same impulses, directed into peaceful channels, have produced the American commercial spirit. The love of risk and of great responsibilities characterizes our industrial and commercial undertakings to a degree unknown in any other country. The perfectly safe small business does not appeal to the native American mind. This may be unfortunate; but we are not now discussing merits and demerits, but only the actual facts and forces that are controlling our policy. Throughout the Eastern states, and with somewhat lesser rapidity in the West, small farming, shopkeeping and minor manufacturing of the absolutely safe kind are falling into the hands of the immigrant population of French-Canadian, German and Italian extraction. A few years ago the Massachusetts Bureau of Statistics of Labor published an interesting investigation, showing that in New England the early factory population of American birth really had not been displaced by the Irish, French-Canadian and Polish immigrants, but had voluntarily left the factory occupations to engage in more remunerative pursuits, calling for greater enterprise, greater personal initiative and, withal, greater risk. No other people in the world has experimented on so costly a scale with new mechanical inventions.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

No other people has taken such gigantic risks of railway construction with so little aid from the taxpayer. No other people has shown such eagerness to rebuild on a larger scale both old and new cities, displacing the three and four story office buildings of ten years ago with modern sky-scrapers, reckless of the probability that much floor space would long remain unrented. No other people has shown so comprehensive a grasp of business possibilities in the organization of combinations and trusts. This trait of character has created also our social standards. It was through no mere whim or caprice that the aristocracy of Boston a generation ago consisted chiefly of families that had made their fortunes in the East India trade. That was the business that called for daring and range of thought, as did the military expeditions which created the earlier aristocracies of Europe. And the newer American aristocracy of to-day, which Professor Peck has entertainingly described,[1] is in reality founded on the same principle. If, among families equally well-to-do and not unequal in cultivation, some are admitted to the reigning social set while others seem to be arbitrarily excluded, we shall usually find the explanation in the character of the business by which fortune was acquired.

Nevertheless, all this American love of adventure, struggle and risk is astonishingly held within certain bounds. The restraining influence is the dominant Puritan spirit in our morals and religion. However much we may despise the timid man and covet the opportunities for dogged endurance and personal heroism which war offers; however much we may admire the business man who successfully achieves great combinations in the market — we do not deliberately or willingly enter upon war or upon commercial speculation unless plausible excuses can be offered to the Puritan conscience. Perhaps we are aggressive; but we do not like to be regarded as ruthlessly or indecently aggressive. We produce every year a crop of speculators and promoters whose fit habitation is the penitentiary; but the great mass of the people really abhor dishonest conduct in business; and it is more than doubtful whether, in

[1] In the *Cosmopolitan*, September, 1898.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

any other nation, commercial credit rests so largely upon a secure foundation of personal integrity.

Let us now see how these truths apply to the events of the past summer. Are we to suppose that a people wholly unapt for war and altogether loath to enter upon military enterprises was suddenly transformed into a military nation by the mere accident of the destruction of a battleship in the harbor of Havana and by the diligence of yellow journals in reiterating a cry for vengeance? Are we to suppose that a people entirely satisfied with its present territory and commercial opportunities has, by the mere accident of a few fortunate naval engagements, been converted into a nation bent upon projects of world empire? Only those who are blind to the true character of the American people and forget or disregard innumerable events antecedent to the Spanish War can answer these questions in the affirmative. The warlike spirit existed long before the destruction of the *Maine;* and the demand for new outlets for both commercial enterprise and political ingenuity was already insistent many years before the battle of Manila Bay. More than once in the past twenty-five years the people of this country have been in a state of mind that would have resulted in a declaration of war, if only the occasion had been one that they could conscientiously regard as adequate. The war feeling was strong in 1891, when our seamen had been attacked in Valparaiso and the North Atlantic squadron was dispatched to the coast of South America. Still stronger was the war feeling that arose during the years of our misunderstandings with Great Britain over the Canadian and the Behring Sea fisheries and culminated in the Venezuelan boundary trouble. It is within the personal knowledge of the writer that, less than six months ago, a prominent member of the United States Senate said, in this city, that he voiced the opinion of many of the most influential classes of the Mississippi valley in declaring that the British Empire ought to be blotted from the map of the world! The remark was absurd; and there is no reason to suppose that the people of the Mississippi valley entertained any such opinion. But the remark undoubtedly did reflect an angry feel-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ing prevalent throughout the country, which might easily have grown to serious proportions. I believe that the real reason why nothing came of that anger, and why no serious results followed the Chilean episode, was the deep underlying conscientiousness of the American people. Angry as they were, and ready as they were to fight if fighting were necessary, they could not enter upon war without at least the semblance of moral reason. They required more than the thirst for vengeance, more than the love of adventure, more than the desire for commercial opportunity: they had to find a pretext that appealed either to their sympathies or to their sense of justice.

In like manner, a desire for the extension of commercial and political opportunities existed before the beginning of the war with Spain, and manifested itself in questionable and even dangerous forms. Let the reader glance over the files of the leading reviews and magazines from 1886 to 1896; let him dip into the books and monographs of the same decade that dealt with the group of questions centering about the Monroe doctrine; and he will discover that a strong feeling was developing throughout the interior and in the South in favor of a policy that should bring the United States into closer relations with the Spanish-American republics and ignore commercial and political relations with the rest of the world. The silver question was intimately bound up with this idea. It was said that the United States, acting with the South American governments, could establish a coinage that need have no relation whatever to the monetary systems administered from London. It was argued that we could build up on the American continent a little international world of our own, and let the effete commerce of the eastern hemisphere dwindle to its plainly foreseen extinction. The Bureau of American Republics was the administrative embodiment of this grotesque idea; and the free silver lunacy was nursed and coddled by it.

If the foregoing is a substantially correct description of the forces of character, temperament, idea and passion that are working out the development of American politics, little further argument is needed to show that the war with Spain was neither

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

accidental nor merely a product of the machinations of self-loving politicians. The Cuban situation gave the American people the first apparently decent excuse for fighting that had been vouchsafed them since the Civil War. That the sufferings of the Cuban population were real was beyond reasonable doubt. That the government of the island was thoroughly corrupt no one denied. That justice had long been little more than a name was currently believed; and that years of bad government had culminated in a deliberate attempt to starve the *reconcentrados* was believed by practically all those newspaper-reading Americans who had no exact knowledge of political conditions beyond the borders of their commonwealth. All those feelings of mingled sympathy and anger which precipitated the Civil War were again awakened by the sufferings of Cuba. With hardly an exception the religious press insisted that it was the duty of America to intervene. Thus there existed that peculiar combination of the moral forces of sympathy and conviction with the inherited love of dangerous enterprise which, as I have attempted to show, must exist before the American people will go to war, but which is practically certain, when it does exist, to beget war.

II.

What results is the Spanish War likely to bring in its train? Are they, on the whole, likely to be advantageous to this country and to the world, or the reverse? In attempting to answer these questions, let us confine ourselves to the observation of what has been, what is, and what probably is to be, leaving the discussion of what ought to be to those who feel competent to undertake it.

For nearly a generation now, the economists and the substantial business men of the United States have earnestly desired to achieve two vitally important economic reforms. They have striven, first and most anxiously, for the establishment by our government of a thoroughly sound monetary system, on a gold basis, in perfect accord with the monetary systems of Great Britain, Germany and other European nations. Almost con-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tinuously, since the unfortunate issue of the legal-tender paper currency of the Civil War, they have been obliged to contend against the wildest popular delusions about fiat money, state banking, the free coinage of silver and government depositories of farm products and chattels as security for loans. Whenever they have attempted to expose and destroy these delusions, they have been forced to show the intricate relations of domestic and foreign trade; and they have been met by an assertion which to the uneducated mind has seemed to have overwhelming weight — the assertion that the United States is a country big enough to have its own monetary system, no less than its own form of government and its own protected manufactures. "What have we to do with abroad?" has been at once the argument, the cant and the silencing retort of the politician and the untrained voter. If the Spanish War has accomplished nothing else that can be pronounced good, it has apparently created a notable popular willingness to have much to do henceforth with "abroad." It has destroyed the good American's naïve conviction that he could never take any great interest in the politics or the commerce of nations over sea. It has brought home to his imagination with overwhelming vividness the essential nearness of America, in these days of steam and electrical communication, to the coasts of Europe and of Asia. The mere thought of conducting successful naval operations at the extreme limit of the Pacific Ocean on one side of the world, and of possibly bombarding the ports of Spain on the other, has awakened a dormant sense of geography that will never again permit the American voter to look at his domestic problems with the old-time satisfaction in our secure isolation.

In the second place, our economists and business men have grappled somewhat less earnestly, and yet seriously, with the question of our trade policy. It has long been perfectly clear to the theoretical economist, and for many years it has been evident to business men of the wider-visioned sort, that we cannot continue indefinitely to sacrifice foreign trade to domestic industry to the extent that we contemplated in the war and McKinley tariffs. That American manufactures were already, in many

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

instances, outgrowing the home demand and, like our agricultural products, must have a foreign market, was becoming daily more obvious before the recent hostilities began. And yet it was not less evident that a strong and deep-rooted popular belief in the wisdom and even necessity of high protection was still to be overcome before any great change in our trade policy could be effected. The real nature of the obstacle, however, was discovered by few of those writers and teachers who believed that, through a campaign of education, through economic teaching in the colleges, through popular discussion and statistical reasoning, the American people in the course of time could be converted to the doctrines of free trade. There is a type of free trader who may be described as a creature endowed with reason and nothing else; and many of the American free-trade teachers were of this type. Utterly lacking in imagination, despising appeals to feeling and to prejudice, they were unable to understand that the masses of mankind are influenced far more by those things that appeal to imagination than by those that can be formulated in irrefragable syllogisms. Now, it is reasonably safe to say that protectionism, in its more extreme forms at least, has held the American mind, not because of its rationality, but because it has powerfully appealed to the lively imagination and to the personal feelings of the average man. What was absolutely necessary to make the policy of trade expansion as popular as protection had been, was some circumstance or train of events to bring the possibilities of foreign commerce before the popular imagination and to associate foreign trade with feelings of a more or less dramatic quality. It was not until a similar appeal to imagination and to feeling was made in England that the repeal of the Corn Laws and the gigantic expansion of England's foreign trade became possible. There was never any good reason to suppose that a similar change could occur in the United States without a similar cause. That cause has now come into operation as a result of our brilliantly successful operations in Cuba and in the Far East. For the first time in our history, foreign trade has taken on color and acquired dramatic interest.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The average voter no longer thinks of it in terms of Treasury statistics. It has become definitely associated in his imagination with the annexation of tropical islands, the populations of which have suddenly interested him and the resources of which are new objects of his thought; with brilliant naval victories in the waters of Manila Bay and of Santiago; with the relation of the Philippine Islands to the rest of the Far East, to the destinies of China and to the limitless possibilities of commercial enterprise that attend the awakening of the Orient. Never again will the protectionist be able to address the same kind of an American mind as in the past. Never again will he be able to pass off his highly colored pictures of prosperity under a McKinley tariff against a mere array of carefully constructed arguments directed upon him by the free trader. In coming days he must address himself to minds already filled with visions of dramatic complications with foreign powers and of a prosperity based upon colonial possessions.

The same psychological considerations apply to the question whether we shall retain the Philippine Islands or merely attempt to dictate their trade policy after they are restored to Spain or allowed to pass into the hands of some other European power. It may be asked: Will not the fact that by conquest and occupation we have already made ourselves familiar with their commercial value be a sufficient stimulus to our trade with them, if only we insist that their ports shall not be closed to us or opened on better terms to other nations? Have not our statisticians and commercial journals shown that our trade with China is great already and increasing; and will it not be all-sufficient if we join with Great Britain in her demand for the open door? Unquestionably the open door is all that we really need for the further development of our Oriental trade. But exactly here lies the difficulty; and here is the danger, so far as our economic interests are concerned, of throwing away our present opportunity to perpetuate our sovereignty in the Eastern Archipelago. It is one thing to say that we *can* take a firm stand upon the question of the freest commercial opportunities in the East, and another thing, possibly, to take the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

stand and to maintain it. In these matters, nations are like individuals. Their policies are determined, not by syllogisms, but by concrete facts. The demand for liberal trade opportunities in the East will not be respected by China and her great overlord, Russia, merely because we are able to show how valuable such privileges have been and may become to them and to ourselves. They will think of us as our protectionists have thought of them and of Europe — as a people afar off — and they will yield a more attentive ear to powers that, in delusive perspective, seem to be more important because they are nearer. All history points to the conclusion that in no way can we make our demand for greater trade facilities in the East so effective as by maintaining our sovereignty over some territory, however small, in that quarter of the world. If we have possessions there, if we have difficulties and responsibilities to meet there, our own attention will not be withdrawn from the opportunities there offered ; and the Oriental powers will not themselves forget our existence and our resources. In short, unless we are prepared to see the Oriental trade that we now enjoy slip out of our hands, and unless we are oblivious to the possibilities of its increase, we probably must retain possession of some territory in the western Pacific. Possession of the Philippine Islands will afford us the exact sort of reason, or the exact kind of excuse, that will appeal to the Oriental mind and to the European powers, when we are forced to protest against any policy of exclusiveness in that quarter of the world.

These psychological considerations apply also to our place and part in another vast economic development, in which our possession of Porto Rico, our possible annexation at some later time of Cuba, our already accomplished annexation of Hawaii and our possible retention of the Philippine Islands give us a new and wider interest. This is the development of the economic possibilities of the tropics. Those who have not read the recently published monograph by Mr. Benjamin Kidd, on *The Control of the Tropics*, have missed the most significant contribution to political economy, in the wide sense of the word, that has recently been made. Mr. Kidd marshals an array

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of figures which, although for years past perfectly accessible to the general reader and familiar to many students of trade reports, had failed to tell their full story until this writer took them in hand. He shows that of Great Britain's foreign commerce, amounting in 1896 to £738,000,000, no less than £138,000,000 was an exchange between the United Kingdom and tropical regions; and that the proportion of tropical trade is steadily increasing. In the foreign commerce of the United States, amounting in 1895 to $1,538,000,000, no less than $346,000,000 was a trade in tropical commodities. Yet, great as it is already, the product of the tropics is insignificant in comparison with what it may become under the more intelligent direction of the white races. It has been abundantly demonstrated, however, that the white races can never colonize the strictly tropical portions of the world; and if the vast possibilities of the torrid zone are to be developed for the benefit of mankind, one of two alternative policies must boldly and definitely be chosen. Either the tropics must be held by northern nations as plantations, to be exploited remorselessly in the old-fashioned way for the benefit of their owners, without regard to the well-being of their native populations; or they must be held as territorial possessions, to be governed firmly, in the interest both of the world at large and of their own native inhabitants, by administrative agents appointed and directed by the home governments of the northern nations. In the latter case, the white officials will be appointed for such terms as may be found expedient, in view of the strain that tropical life imposes upon the white man's constitution. Mr. Kidd makes an argument, convincing to any reasonable mind, that the second of these policies is the one which the conscience and the judgment of the English-speaking race will ultimately approve and adopt. The task of governing from a distance the inferior races of mankind will be one of great difficulty — one that will tax every resource of intellect and character; but it is one that must be faced and overcome, if the civilized world is not to abandon all hope of continuing its economic conquest of the natural resources of the globe. Is it extravagant to say that

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the English-speaking people will not be discouraged by the difficulty, and that it will regard as preposterous any suggestion to turn aside from the natural course of economic evolution? Is it not a foregone conclusion that the United States, having at length been brought, as England many years ago was brought, face to face with this problem in its practical form, will make precisely the choice that England made; and that it will resolutely give its attention to the task of doing its share in that attempt to bring tropical regions under efficient government and a sound industrial organization, which is the only ultimate possibility to be thought of by humane and far-seeing men?

I have indicated the chief economic advantages that we may reasonably hope to achieve in consequence of our war with Spain. Of another benefit which apparently we are to reap — that, namely, of a good understanding and friendly alliance with Great Britain — I need not speak. Among the bitterest opponents of all that has been done, none is found who does not rejoice that at last we recognize our kinsmen over sea as our brethren and as our co-workers in the tasks of civilization.

Are we, then, to close our eyes to that other side of the picture which has been so clearly drawn by conservative writers, who have pointed out the grave political dangers that our Republic may incur if we enter upon a policy of territorial expansion? Is it not more than possible that the economic advantages which have here been suggested, and even the good understanding with Great Britain, for which every true American is profoundly thankful, may be bought at too dear a price? Assuredly, no sane man will deny that this may indeed prove to be the case. It would be childish to ignore the great probability that, for many years to come, the government of any island territories that we may annex will be corrupt, and perhaps even more scandalous than anything that we have hitherto known within our present boundaries. We cannot expect that civil service reformers will be permitted to dictate appointments, or that pure statesmanship will frame legislation and administrative policies. Indeed, there is every reason to expect that political adventurers of the most disreputable sort will

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

find such opportunities as they have not enjoyed since the days of Reconstruction in the South. Corruption and scandals, then, we may expect; but is this all that we may look for?

It is a commonplace of popular philosophy and a sound principle of statecraft that responsibility is a powerful moralizing influence, and that it often develops the highest qualities of character in men of whom little but evil has been anticipated. Some of the best administrations that our country has enjoyed have been conducted by men who, before their assumption of the high duties of the presidential office, were known only as machine politicians of the baser sort. Outlying possessions will compel us, as nothing hitherto has done, to respect the opinions, the manners and the interests of other nations. They will continually involve us in complications from which we can hope to emerge unscathed only by the utmost exercise of tact and knowledge. They will enforce the steady improvement of our diplomatic and consular service. During the last six months the affairs of our Department of State have been conducted by men who would not for a moment have been thought of for such services had not imperative necessity compelled the administration to resort to expert knowledge. Is it, then, fanciful to assume that our new possessions will, in the long run, effectively demand appointments of the same high character? Not all this beneficial reaction of political contact with the larger world will be accomplished immediately, or even in a generation. Moral evolution and the perfecting of government are slow processes; but they are always to be expected under the continuing pressure of necessity. Nations, like individuals, improve both their morals and their manners when they have no alternative.

Therefore, so far from despairing of the Republic if we enter into more complicated and more delicate relations to world politics, we may rather anticipate that the change will prove to be precisely what was needed, and that our new responsibilities will operate more surely and more continuously than any other influences to improve the morale and the wisdom of American administration. In this belief we are supported by

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the experience of British colonial government. As every student of history knows, the age of Walpole was marked by corruption greater and apparently more irremediable than any which we have yet known in American political life. Who could have predicted that, after a century of continuous territorial expansion, with a correspondingly rapid multiplication of official positions, the administrative side of British government, instead of becoming hopelessly incapable under the increasing strain, would have become the purest and most nearly perfect mechanism thus far known in political history? Have we, then, any right to despair of our own experiment, under a similar broadening of opportunities and responsibilities? If we have, our estimate of American character must be a sorry one. Great Britain successfully administers the governmental affairs and protects the economic interests of populations numbering 381,037,874 souls, occupying a territory of 11,335,806 square miles. The islands that have recently been annexed, and those that may soon be annexed to the territory of the United States, are 167,753 square miles in extent and are inhabited by about 10,000,000 people. If the republican form of government is to be undermined and destroyed in a nation of 70,000,000 of the most resourceful, energetic and, all in all, conscientious human beings that have yet lived upon this planet, under the strain of devising and administering a workable territorial government for outlying island possessions of such modest dimensions as these, it would appear that our estimate of the excellence and stability of republican institutions must have been a grotesque exaggeration.

And now there remains one further consideration, before completing this rapid and necessarily superficial survey of the forces and circumstances that are bearing the American people into a new and momentous stage of their political evolution. Republican institutions may be destroyed by internal corruption or overwhelmed by external force. This latter danger has never been a real one for the American people; because, during our century of political experiment, world politics have been dominated by a power which, notwithstanding the disobedience

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of our early years and the cantankerous spirit of our adolescence, has ever regarded us with a certain parental pride and has ever wished us well. Very different might have been our fate, had world politics during these one hundred years been dominated by an empire of the Napoleonic type. Let us then soberly ask ourselves whether we have any substantial assurance that the time has gone by when political absolutism may again have the ascendency in international relations? So securely have we dwelt in our western isolation that we have almost ceased to think of absolutism as a modern force, or to regard it as anything but a singular survival of antiquity, as powerless and as picturesque as the ruin of an ancient fortress. From this security we may rudely be awakened. Of late it has dawned upon a few outreaching minds that the one formidable competitor of the liberty-loving English-speaking people of the world is that gigantic nation of the north whose political organization is still absolutely autocratic and whose teeming millions of inhabitants are, for the most part, a superstitious ignorant multitude, who bow to authority with unquestioning submission. The rapidity with which that nation is extending its territorial possessions and influence indicates that its statesmen are restrained by no such fears of the inherent weakness of empire as have recently been voiced within the United States. Little by little it is tightening its grasp upon the peoples of Eastern Asia; and its purpose stands clearly revealed to extend its sovereignty and its political organization throughout at least a great part of China. Can any one look forward to the consolidation of a Russian-Chinese empire without serious misgivings as to the future of those things that we are accustomed to regard as the essentials of civilization? Certain it is that a gigantic struggle impends between that empire and the power from which we have derived our own civilization and institutions, and which to-day is our truest friend and strongest ally. In the broad sense, there is from henceforth but one real political question before mankind. That question is: Are world politics to be dominated by English-speaking people in the interest of an English civiliza-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tion, with its principles of freedom, self-government and opportunity for all ; or by the Russian-Chinese combination, with its policy of exclusiveness and its tradition of irresponsible authority? Let us not deceive ourselves with any notion that we can safely stand apart from this conflict. If we pursue a course so selfish and short-sighted, the probabilities are that both Great Britain and the United States will lose commercial opportunities, will sink to positions of secondary influence and will presently find themselves obliged to conform in all their policies to a power that will dominate international relations as remorselessly as did Cæsar or Napoleon. If, on the contrary, we throw our energies into the struggle in alliance with Great Britain, we need have little fear that another thousand years of mediæval night will fall upon the western world.

Opportunity is ours to determine the fate of more nations than one. In the closing days of June in the year 451, on the plains of Châlons-sur-Marne, was fought the most murderous battle that has occurred within the Christian era. An army of 700,000 Huns from Central Asia, apparently about to take possession of the European coasts and forever to extinguish the Latin civilization and the Christian faith, was there opposed by the united forces of Aëtius and Theodoric, and the struggle was to the death. Legendary history says that 160,000 warriors were left dead upon the field. The remnant of Attila's horde made its way back through Italy, and at length to its Asian home. On the first morning of May in the year now passing into history, on the other side of the world, under a tropical sun, in the waters of Manila Bay, was fought the most nearly bloodless battle of any importance within the Christian era. Without loss of American life a fleet of second-class but efficient vessels overwhelmed the Spanish naval forces of the Pacific. But was that all? The victory of Châlons forever turned back the hordes of Asian barbarism from their westward advance. Were they stopped in their eastward advance by the guns of Admiral Dewey's fleet? It is for the people of the United States to say.

FRANKLIN H. GIDDINGS.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

THE FEDERAL BANKRUPTCY LAW.

AFTER nearly twenty years of agitation and effort, the advocates of federal bankruptcy legislation have carried their point. The conference report on the Torrey-Henderson bill was adopted by Congress toward the close of its last session, and by the signature of the president, July 1, it became a law.

It was not the intention of Congress, in passing this measure, to make temporary provision for the relief of the legions of insolvent debtors, victims of the long period of financial depression, and to repeal the law again when this purpose should be accomplished: on the contrary, the intention was to establish, for the adjustment of the mutual rights and obligations of debtors and creditors, a system of bankruptcy legislation which, it was hoped, would become a permanent part of our national jurisprudence.

It may be of interest, then, to review some of the considerations involved in the passage of a national bankruptcy law — the need of it, the power of Congress to enact such a law, a few of the causes of the opposition in Congress to legislation on this subject, and the defects that have proved fatal to previous acts and have caused their repeal. Finally, it may be worth while to examine some of the provisions of the law of July 1, 1898, by which its authors, in the light of experience, have attempted to avoid the mistakes and correct the abuses of former laws.

A bankruptcy law which is to be permanent should be framed in the interest of the whole community and not of any one class, whether debtors or creditors. It should have three principal ends in view. In the interest of the creditors, it should effect an equitable distribution of the debtor's property. In the interest of the honest but unfortunate debtor, as well as of the community, it should secure for him a discharge from his

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

obligations. In the interest of the community, as well as of the creditors, it should discover and prevent any fraud either by the debtor or by one or more of his creditors. The first requirement is based on strict justice, and its importance is universally recognized in continental Europe as well as in England and the United States. The second is justified by public policy and expediency, as well as by a broad humanity, but is not so generally recognized. The justice and expediency of the third cannot be questioned. Neither the law of 1800 nor that of 1841, however, fulfilled these requirements: the former was in the interest of the creditors, the latter in the interest of the debtors.

From the point of view of the public interest, the theory of a discharge is that an undischarged bankrupt, burdened with an incubus of debt, has no incentive to gain more than a mere livelihood; nor will he be likely to receive assistance from relatives or friends, when hordes of hungry creditors stand ready to pounce upon his acquisitions. From this condition of affairs the creditors reap no benefits; and the hopeless debtor is a dead weight upon the community. The discharged bankrupt, on the other hand, will begin again with renewed courage to capitalize his skill and industry, and the community will not be deprived of his labors. Under this theory a discharge will, of course, be refused to a fraudulent bankrupt, as his labors are of no value to the public. As to the principle involved, Story says:

> One of the first duties of legislation, while it provides amply for the sacred obligation of contracts and the remedies to enforce them, certainly is, *pari passu*, to relieve the unfortunate and meritorious debtor from a slavery of mind and body, which cuts him off from a fair enjoyment of the common benefits of society and robs his family of the fruits of his labor and the benefits of his paternal superintendence. A national government which did not possess this power of legislation would be little worthy of the exalted functions of guarding the happiness and supporting the rights of a free people. It might guard against political oppression only to render private oppressions more intolerable and more glaring.[1]

[1] Commentaries on the Constitution, § 1106.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

From any of the foregoing points of view the insolvent laws of our states are necessarily inadequate. In the first place, they cannot secure equality among the creditors. The doctrine of the American courts has come to be this: that a domestic creditor or a foreign suitor, who has attached his debtor's property within the jurisdiction of the court, is to be preferred to the trustee or assignee of a foreign bankruptcy, even though his attachment was secured subsequently to the adjudication of the foreign bankruptcy; and that for this purpose the states of the Union are foreign to one another. This is not an application of the principles of international private law, for the rule has been applied between citizens of different states having similar laws upon the subject. It simply expresses the determination of the courts to give preference to their own citizens and to suitors within their own jurisdiction.

In the second place, a discharge granted by a state law does not release the debtor from debts to foreign creditors, unless they have come within the jurisdiction and have proved their claims in bankruptcy. This means, of course, that in many cases a discharge under a state insolvency law is virtually worthless, since the majority of a debtor's creditors may reside without the state of his residence, from whose courts he has received his discharge.

In the third place, many of the states have made no provision for annulling fraudulent conveyances made on the eve of insolvency; and preferences benefiting one creditor at the expense of others are allowed in Florida, Georgia, Indiana, Mississippi, Montana, Nevada, New Mexico, New York, North Carolina, Ohio, Texas, Utah and Virginia, and in the District of Columbia.

When we consider the steady increase and ramification of our interstate commerce and the evils that may arise from the multiform state laws, the far-seeing wisdom of the builders of our constitution becomes apparent. The Constitution of the United States gives Congress power "to establish uniform laws on the subject of bankruptcies throughout the United States." This is, therefore, not an implied power, but one that has been

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

expressly granted by the states to the federal government. It is practically exclusive, since it is only by congressional action that uniform laws can be established. It has been decided, however, that the enactment of a national law does not extinguish, but merely suspends, the state statutes, and that these become operative again whenever the congressional act is repealed.

Question arose at an early period as to the scope of this power. The answer depends on the interpretation given to the word "bankruptcies." At the time of the adoption of our constitution, the terms "bankruptcy" and "insolvency" had quite distinct meanings in England. Imprisonment for debt existed in that country; and insolvent laws were intended to afford a debtor thus confined an opportunity to regain his freedom by asking for a discharge and offering to surrender all his property for distribution among his creditors. Bankruptcy, on the other hand, had a more technical meaning. Bankruptcy laws, which had appeared with the higher development of commerce, were applicable solely to traders, could be put into operation only by creditors and had the effect of discharging the debts as well as the person of the debtor. The two systems did not, however, differ as regards the surrender and administration of the debtor's property. The strict constructionists in the United States claimed that the word "bankruptcy," as used in the constitutional grant to Congress, should be limited in meaning to the narrow English sense; but at an early date the courts decided that this clause was to be construed as giving power to Congress to adjust the affairs of all insolvent debtors.

The first exercise by Congress of the constitutional grant of power was the act of April 4, 1800, which was modelled after the English statutes existing at that date and was a bankrupt law in the narrow sense. It provided only for involuntary bankruptcy, or, in other words, for bankruptcy resulting from the petition of the creditors; it was applicable only to merchants and traders; and it was very harsh in its treatment of the debtor. This law was limited to five years and from thence to the end of the next session of Congress; but it was repealed within that period by the act of December 19, 1803.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

In the spring of 1840 another effort was made to establish a uniform system of bankruptcy. The purpose of Congress was to enact a measure for the relief of the thousands of debtors who had been ruined during the financial and commercial panic of 1837–38, and for whose relief the state laws were inadequate. The bill that was reported was in the interest of debtors only: it aimed to establish a system of voluntary bankruptcy that would enable debtors of every description to secure discharges from their debts without the consent of any of their creditors. This bill was opposed by some because, as they alleged, it would enlarge the powers of the federal courts, increase the federal patronage and lead to corruption and abuse. The constitutionality of the measure was attacked, on the ground that the power granted by the constitution to Congress was incidental to the regulation of commerce and was to be applied only to merchants and traders. It was also argued that the term "bankruptcy" must be taken in the restricted English sense as meaning an involuntary system for the benefit of creditors only, to be put into operation solely by them. The construction that had been put upon the term by the law of 1800 was proof, they said, of the intention of the makers of the constitution. It was further maintained that a provision for involuntary bankruptcy was necessary to protect the rights of creditors.

The advocates of the bill, on the other hand, contended that it would benefit creditors, inasmuch as it would effect an equitable distribution of the debtor's property among his creditors; that the term "bankruptcy" meant failure and applied to persons of every description who had become insolvent; and that the constitution did not intend to restrict Congress to the passage of a law providing for involuntary bankruptcy only and applicable to traders only, like the English law of that period, but aimed to give Congress power to adjust the affairs of all insolvent debtors.

At the next session of Congress a national bankrupt law was passed, the act of August 19, 1841. It contained a clause for voluntary bankruptcy that applied to all debtors and one for involuntary bankruptcy, applicable only to debtors who were

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

merchants or traders and who had committed certain fraudulent acts. Any person residing within the United States who had debts not created in consequence of a defalcation as a public officer, or as an executor, administrator, guardian or trustee, or while acting in any other fiduciary character, might declare his inability to meet his obligations; and might, by petition on oath setting forth a list of his creditors and an inventory of his property, apply to the proper district court for the benefit of the act. Any merchant, trader, banker, broker, underwriter or marine insurer, who had debts to the amount of $2,000, was liable to become a bankrupt upon petition of one or more of his creditors to the amount of $500, provided he had absconded or fraudulently removed or concealed or assigned or sold his property. When duly discharged, the bankrupt was declared to be free from all his debts.

This provision for involuntary bankruptcy did not satisfy creditors, since it gave them no means of opening bankruptcy proceedings against debtors who were fraudulently disposing of their property, unless they chanced to be merchants or traders. The law was therefore repealed March 3, 1843, after a life of only thirteen months.

During the existence of the act of 1841, the constitutional power of Congress to enact a voluntary bankrupt law was passed upon by the courts, and it was decided that the voluntary as well as the involuntary clauses of the act were constitutional. This question has never been revived.

The act of 1867 was intended to benefit both debtor and creditor — to secure equality, by forbidding preferences to favored creditors and by dissolving all recent attachments upon the debtor's property; and to improve the condition of honest debtors, by giving them discharges on certain conditions. It contained provisions for both voluntary and involuntary bankruptcy, and the involuntary clause was made applicable to non-traders as well as to traders.

In 1874, however, this law was amended by Congress in a way that made it very difficult and expensive for creditors to force debtors into bankruptcy. It was made necessary for one-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

fourth in number and one-third in value of the creditors to unite in the petition to have a debtor adjudged a bankrupt. The obstacles in the way of procuring the joint action of so many creditors rendered the involuntary clause practically useless, and the law became virtually a system of purely voluntary bankruptcy, with all of its attendant evils. Rather than submit to so much trouble and delay, creditors preferred to rely upon their ordinary legal remedies of judgment and attachment. So slow, moreover, was the procedure and so exorbitant were the fees paid to the various officials, that the bankrupt's estate was wasted and the creditors realized little or nothing.

After the repeal of this law in 1878, unremitting efforts were made to secure the enactment of a national bankruptcy law, which, by strengthening credit, by facilitating the collection of debts and by granting to the honest but unfortunate debtor a discharge from his burden of liabilities, should conserve the interests of all classes of the community — a law which should prevent imposition on the one hand and oppression on the other. These ends, it is believed, are fairly secured by the present law. Originally prepared by Col. Jay L. Torrey, of Wyoming, it was introduced in the last Congress, with various modifications, as the Henderson bill, and after still further amendment it became a law on July 1, 1898. It provides for both voluntary and involuntary bankruptcy, and, with certain exceptions, it is applicable to both traders and non-traders.

The opposition to this bill came mainly from those sections of the country which buy on credit and sell for cash, and was directed chiefly against the provision made for involuntary bankruptcy. The representatives of these sections desired a system of purely voluntary bankruptcy. They introduced various bills — for instance, the Culberson and Bailey bills — that were intended as temporary relief measures, necessitated by a period of financial depression and to be repealed again when business prosperity should have returned.

The objection to a purely voluntary system of bankruptcy lies in the opportunity it offers to a dishonest debtor to commit frauds. A man with knowledge of his insolvency may deliber-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ately prepare for bankruptcy. With the connivance of friends and relatives he may convey away his property ; may confess judgments or suffer them to be procured against him ; may wait until the period during which such acts may be attacked — two to six months — has expired ; and then, by filing a petition for voluntary bankruptcy, may perhaps secure a discharge from his debts. Even if a discharge is refused him, his property will have vanished and those who have trusted him will receive nothing. Such was the experience of this country under the laws of 1841 and 1867. The provision for involuntary bankruptcy, however, enables creditors to prevent this by themselves opening bankruptcy proceedings, whereby the debtor's fraudulent acts are annulled and his property is restored to the estate and administered for the equal benefit of all his creditors.

As a matter of precedent, a system of voluntary, unaccompanied by involuntary, bankruptcy exists nowhere in Europe ; and there are only four states in this country which have anything approaching it — namely, Oregon, Wisconsin, Idaho and New York. On the other hand, the double system is found in England, in all the continental European countries and in California, Connecticut, Maine, Massachusetts, Maryland, Minnesota, Nevada and Vermont.

The friends of involuntary bankruptcy have been divided into two parties : (1) Those who favor it only when a debtor has committed an act essentially fraudulent—for example, secreting his person or property to defeat his creditors ; or, when already insolvent, preferring one creditor at the expense of others ; or procuring judgment or suffering judgment to be entered against him with intent to defeat creditors, *etc.* (2) Those who favor it also when the debtor has committed certain acts which result merely from his inability to meet his obligations — for instance, suspending payment of his commercial paper when due ; failing for a certain time to secure the release of any property levied upon, *etc.* Under the Nelson bill, which was supported by a majority in the Senate, fraudulent acts only were recognized as furnishing ground for involuntary bankruptcy ; while

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

under the Torrey bill, as originally introduced in the House, both classes of acts were so recognized. In order to effect a compromise between the Senate and the House, the acts of bankruptcy of the second class were one by one stricken from the Torrey bill; so that, by the law as finally enacted, creditors cannot force bankruptcy upon an unwilling debtor until he has committed an act that is essentially fraudulent.

As has been the case in the discussion of all former bankrupt laws, it was urged, in opposition to the present law, that it would enlarge the jurisdiction of the federal judiciary. There is, however, no virtue whatever in this contention. The Constitution of the United States gives Congress power to pass a uniform law. It also gives to the federal courts jurisdiction over cases arising under the laws of the United States. Congress, then, in passing such a law does not extend the jurisdiction of the federal courts: it merely enables them to exercise a jurisdiction conferred upon them by the will of the sovereign people, expressed through the constitution. Furthermore, as a practical matter, a law can be uniformly administered only when it is administered by a single system of courts, with a single court of last resort to interpret it in the last instance. A law administered and interpreted by forty-five independent judiciaries would soon cease to be uniform. The law of 1898 has, moreover, carefully guarded the rights of the state courts, and does not in any way interfere with their jurisdiction over controversies between trustees of bankrupt estates and parties claiming adverse interests.

Those who have sought to limit the jurisdiction of the federal judiciary have from time to time presented measures such as the Culberson and Bailey bills. The latter provided for voluntary bankruptcy only. Under it an insolvent debtor might make an assignment valid according to then existing laws of his state; and might then petition the United States district court of his district for a discharge, which would be granted by the judge if he were satisfied that the assignment had been *bona fide* and for the equal benefit of all the creditors. In other words, the proceedings were to be made complicated and

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

expensive by being conducted partly in one forum and partly in another; the federal and the state courts were to be brought into conflict; and the way to a discharge was to be made very easy by placing the creditors at the disadvantage of opposing the discharge in one forum on the ground of the debtor's conduct while within the jurisdiction of another. Strangely enough, this bill emanated from the party favoring the strict construction of the constitution, which in 1840 opposed the enactment of a voluntary bankrupt law on the ground of its unconstitutionality.

To meet the objection that has been constantly urged against former laws — that it was inconvenient and expensive for suitors to travel long distances to the seat of the federal courts — the law of 1898 provides that the courts shall designate, and from time to time shall change, the limits of the districts of referees, so that each county where the services of a referee are needed may constitute at least one district, thus bringing the federal courts home to the people.

Among the chief causes of popular discontent with the two preceding acts, and more particularly with that of 1867, were the protracted delays in the proceedings and the numerous and exorbitant fees paid to officials. These abuses led many thinking people to the conclusion that a bankrupt law that would be satisfactory in this respect could never be framed. It has even been said upon the floor of Congress, during a burst of florid oratory, that a bankrupt law was for the benefit of neither creditors nor debtors, but for the benefit of the rodents who infest the places of justice. In the law of 1898, however, a method of compensating referees and trustees has been adopted which, it is believed, will reduce the expenses to a minimum, and will make it the interest of these officials to effect a speedy termination of bankruptcy proceedings and to realize the largest possible dividends for the creditors. Referees are to receive as compensation for their services a fee of ten dollars, deposited with the clerk at the time the petition is filed and payable to the referees after their services are rendered; and from estates administered before them they are to receive

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

one per cent commission on sums to be paid as dividends, and a commission of one-half of one per cent on the amount to be paid to creditors on the confirmation of a composition. In order further to reduce the expenses, the courts are empowered to appoint and remove the referees in their discretion, thus making the staff of referees an elastic body that will expand or contract in accordance with the needs of the service. Trustees are to receive a fee of five dollars and such commissions as may be allowed by the courts. These commissions, like those of the referees, are to be computed, not upon the total outgo of the estate, but upon the sums actually paid to the creditors as dividends; and they are not to exceed three per cent on the first $5,000, two per cent on the second $5,000 and one per cent on payments in excess of $10,000. Here again the compensation is to be paid after the services have been rendered. The clerk will receive but a single fee, which will be paid to him in advance; and he will have no interest in delaying the proceedings, but will be anxious to have the estate administered as quickly as possible. Since marshals and district attorneys are already salaried officers, every temptation for the officials charged with the administration of the law to exact exorbitant fees or to delay the work has been removed.

The payment of any fees may be avoided by one who wishes to avail himself of the law as a voluntary bankrupt, if he accompanies his petition by an affidavit stating that he does not possess and cannot obtain the money to pay such fees. To such an extent, indeed, have the fees been reduced under the present law that it is seriously doubted by many whether it can be effectively administered.

The practical working of the new law will doubtless disclose opportunities for further amendment, but in its general plan it embraces those features which should be found in a bankrupt law that is to subserve the best interests, not alone of business men who give credit, but of the whole people.

S. WHITNEY DUNSCOMB, JR.

NEW YORK CITY.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

RAILROAD CONTROL IN NEBRASKA.

THE geographical position of Nebraska, remote from the centres of trade, combined with the fact that the principal products of the state could not be disposed of within her borders but had to be transported quickly and cheaply to markets at a distance, gave the railroad question prominence in this state almost from the beginning. Since the early seventies the question has been one for consideration in nearly every political convention; and a protest against railroad mismanagement or a suggestion as to more effectual control has constituted a plank in the platform of practically every party. Since the later seventies the legislature, in its biennial sessions, has grappled with the problem with unfailing regularity, and campaign orators have always found it one of their most valuable sources of political capital. Probably no subject has agitated the people more than this one, which has been the direct cause of party divisions and of the creation of political organizations on new lines. The recent decision of the supreme court on the Nebraska maximum rate law has turned the attention of the country to the efforts put forth by this state to solve the question of regulation, and a history of these attempts contains much that is interesting and profitable.

When Nebraska was admitted as a state by proclamation of President Johnson, March 1, 1867, it was almost entirely undeveloped industrially. The population, estimated at 70,000, was settled on the rich lands of the Missouri valley and was engaged mainly in agriculture. The only railroad in the state was the Union Pacific, still operated by the contractors who had built it. The President of the United States had accepted formally 305 miles of the road extending west from Omaha along the north bank of the Platte river. But this line was as yet of little value to the shippers of the state, for it had neither eastern nor western connection. Communication with the East had to be

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

made either by hauling goods overland from the termini of the Iowa railroads or by bringing them up the Missouri river by boat from St. Joseph.[1]

The industrial future of the state, however, was rich in possibilities. The fact that the Union Pacific had chosen the natural roadbed that ran through the state made it certain that shippers would speedily enjoy the most direct routes to market. Scarcely had the territory assumed the responsibilities of statehood before these hopes were realized. The Union Pacific, with the incentive of government backing, was pushed forward rapidly to its junction with the Central Pacific at Ogden. On May 10, 1869, the last spike was driven, and Omaha and Sacramento, 1775 miles apart, were in communication by rail. The Chicago and Northwestern and the Chicago, Burlington and Quincy reached Council Bluffs, opposite Omaha, in the fall of 1867, and the Chicago, Rock Island and Pacific in June, 1869. The Illinois Central was running trains into Sioux City, on the western border of Iowa, early in 1870. A line connected this city with Omaha and extended to the north toward St. Paul. Connection had meanwhile been effected on the southeast with the trunk lines of Missouri. Thus the three great states of the Mississippi valley — Iowa, Illinois and Missouri — had been cut in every direction by railroad lines, most of which sought a western terminus in Omaha or Council Bluffs and focused in the east either at St. Louis or Chicago. It was into this great wealth-producing section that the East was pouring thousands of her population; and Nebraska was to secure her share of this energy and enthusiasm and thrift. Railroad building ceased in Nebraska for three years after the Union Pacific had passed beyond the borders of the state, but was renewed in 1870 and was pushed in the reckless manner characteristic of all the Western states at this time. Messages of governors and addresses of public men urged the encouragement of immigration and advocated the construction of railroads as a means

[1] The Hannibal and St. Joseph Railway had been in operation across the state of Missouri since February, 1859. — Million, State Aid to Railways in Missouri, p. 111.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of making their plans effective. Capitalists, in the hope of a rich future return, yielded readily to the pressure and built lines ahead of settlement.[1]

We naturally look for little in the way of railroad legislation during these early years, except acts providing for the incorporation of new lines. The Revised Statutes of 1866, so far as they related to railroads, went no further in the direction of control than to require the submission to the state auditor of annual reports showing the capital stock, the gross receipts, the cost of repairs and incidentals, and the net amount of profits and dividends. These reports were to be incorporated in abstract in the auditor's annual report to the legislature. The companies were held to their obligations as common carriers but were allowed to fix their own rates for the transportation of freight and passengers. Such laws as were enacted during the next few years prescribed the liabilities of railroads for passengers and stock injured or killed, required the fencing of track and granted to outside companies the privileges enjoyed by Nebraska corporations. But there was little said or done that suggested the assumption that railroads were oppressive and ought to be restricted. To be sure, bills and joint resolutions were introduced into the legislature during the seventies, but they rarely advanced beyond the committee stage; and if they ran this gauntlet successfully, they were indefinitely postponed in open session. The idea had taken strong hold upon the thinking man that railroads had made the West what it was; that an extension of railroad facilities was imperatively demanded; and that no action should be taken which could

[1] Mileage of Nebraska Railroads, according to Poor's Manual

Dec. 31.	*Miles.*	*Dec.* 31.	*Miles.*	*Dec.* 31.	*Miles.*	*Dec.* 31.	*Miles.*
1866	305	1874	1107	1882	2498	1890	5316
1867	473	1875	1127	1883	2696	1891	5407
1868	473	1876	1150	1884	2794	1892	5511
1869	473	1877	1286	1885	2987	1893	5529
1870	705	1878	1344	1886	3615	1894	5585
1871	943	1879	1634	1887	3983	1895	5619
1872	1051	1880	1953	1888	4905	1896	5583
1873	1107	1881	2277	1889	5046	1897	5586

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

operate to jeopard the interests of the roads or prevent a steadily increasing enjoyment of their benefits by the people.

The agitation commonly known as the "Granger Movement" played little part in the railroad history of Nebraska during the early seventies. Railroad building had begun in this state at a later date than in Wisconsin, Iowa and Illinois; and that wave of hostility which swept over these Northwestern states during the seventies was not to reach Nebraska until the following decade. The farmers in Nebraska had an organization which was a part of the National Grange. It held its conventions and passed resolutions which did not differ materially from those passed by the Grangers of the states farther east. But when these resolutions were not framed purely for political effect, they served rather to denounce the oppressions suffered in other states than to embody a protest against serious evils within Nebraska itself. They may, indeed, have been intended as a warning to the corporations against the introduction into Nebraska of practices that had proved burdensome elsewhere. However, if there was in the expressions of this party any serious protest against local railroad management, it had not yet sufficient support to be made effective through legislation.

The new constitution, adopted in 1875, embodied in a general way the results of Nebraska's ten years' experience in railroad supervision. It was prescribed that all operating roads should have within the state public offices where their books should be open for inspection. The legislature was empowered to pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight; was authorized to correct abuses and to prevent discrimination and extortion in all charges; and was given the right to enforce such laws by adequate penalties, to the extent of forfeiture of property and franchises. The railroads were required to submit annual reports to the state auditor. The issuance of fictitious stock was forbidden. The grant of the right of eminent domain was not to be construed as depriving the state of its sovereign rights, and the liability of railroad corporations as common

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

carriers was never to be limited. These general constitutional provisions were the only restrictive measures of any description that were passed during the decade. The corporations managed their affairs in their own way and were permitted to charge such rates for the transportation of passengers and freight as seemed to them reasonable. But this *laissez-faire* policy could hardly be expected to endure. The struggle already impending was the natural and inevitable outcome of the introduction of a new and revolutionizing force in industry.

An appreciation of the tremendous advantages to be derived from an abundance of railroad facilities had led to an enthusiastic demand for their increase. To this demand the railroads had yielded, in the hope that by securing a monopoly of the territory they might in the future gain a profit on their investments. Over-building of railroads was the result. Through the influence of increased railroad facilities and the efforts of the immigration societies, settlers pushed into the state and the population increased rapidly. The development of the resources of the state began, and with it came the demand for cheap transportation to market. A portion of each crop could be disposed of in the states to the west, but a large part of the surplus had to be sold in eastern markets in competition with states more advantageously situated. In answer to the demand for lower through rates, the railroads replied that they were operating a large portion of their mileage through tracts of country sparsely settled and capable of yielding only a light tonnage, and that they were forced to demand rates which would be unnecessary under more favorable conditions. The struggle was not unlike that which had taken place in the Northwestern states earlier in the decade. Though the farmers of Nebraska had some ground for complaint, in the attempt of the railroads to make profits on fictitious capitalization and in the discriminating practices more or less prevalent, little can be said in defense of the intemperance and bigotry which characterized the Granger attitude in the controversy. The proceedings in the legislative session of 1879 made it evident that the fight was fairly on. A host of bills to restrict railroads

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

in their transportation charges was introduced. The railroad committees of the two houses held a joint session and, after a thorough examination of all the measures, made a majority report, recommending that consideration of railroad legislation be indefinitely postponed. They insisted that the legislation proposed could not accomplish the intended purpose, and that the best interests of the state demanded that no action should be taken at that time.[1]

The first blow at the corporations was struck in the passage of a statute entitled: "An act to fix a maximum standard of freight charges on railroads, and to prevent unjust discriminations therein or secret rates, rebates or drawbacks therefor," approved February 28, 1881.[2] This law provided that every railroad corporation should give to all persons reasonable and equal terms and facilities for transportation and terminal handling. Secret rates, rebates, drawbacks and all undue advantages were forbidden. No company was permitted to charge for any specific distance a greater sum than it demanded for a greater distance. The maximum tariffs allowed were the rates charged on the first day of November, 1880, as shown by the published schedules of the companies. These were the lowest average rates that had been promulgated by the railroads up to that time. They differed somewhat on the various lines; but the classification was substantially the same, and the variation in charges for short or moderate distances was not considerable. This form of control, through maximum rates prescribed directly by the legislature, was not decided upon without a struggle. The railroad committee of the Senate had in its report argued strongly against the plan, insisting that it was unwise and impracticable for the state to assume the control of railroad tariffs; that an arbitrary schedule would operate disastrously against the weaker roads; and that in the existing industrial condition of the state no legislation should be enacted that would check the increase of railroad facilities. The committee had recommended the commissioner system, and had intimated

[1] Senate Journal, Fifteenth Session, 1879, p. 444.
[2] Chapter 68, Laws of 1881.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

that many of the charges against railroad management were due either to ignorance or to the desire to win political prestige through opposition to monopolies.

The farmers of Nebraska had not learned wisdom from the experiences of the agriculturists in Iowa and in other Northwestern states. We can explain the passage of this statute only by assuming that its promoters accepted without question the contentions of their eastern brethren, who argued that the maximum rate laws passed in Iowa, in Minnesota, in Illinois and in Wisconsin, in the early seventies, had not been accorded a fair trial; that the railroads had willfully disobeyed them and had misrepresented their workings to the people; that if the railroads had accepted this legislation in the proper spirit and had put the rates into effect upon their lines, they would have found them amply remunerative and much more satisfactory than the destructive discriminating rates which had been previously in force. If the farmers of Nebraska expected to be more successful in their experiment than those who had previously attempted regulation on this plan, they were doomed to disappointment. Difficulty was experienced in making the new law effective. There was no body whose duty it was to see that the rates were not exceeded, and no tribunal before which complaints could be taken and redress secured. The courts were too slow in action to be effective in matters of this kind. Furthermore, it was not enough to wait until the law had been violated and then to take proceedings against the violator: a body was needed that would be able to prevent as well as to cure. The law was hardly upon the statute book before protests began to be heard. The railroads were charged with attempts to evade the law by changes of classification and to prejudice the business men of the state against the act as the cause of higher freights.

The subject received extended consideration in the legislative session of 1883. The people had driven the entering wedge of control in the passage of the law of 1881. They were enjoying the sense of power which their success had given them, and a further move in this direction seemed to

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

them both easy and natural. Moreover, circumstances had conspired to increase the number of the discontented in the state and to swell the ranks of the anti-railroad forces. Population had poured into Nebraska in the later seventies and the early eighties, and had pushed into the sub-arid belt to the west, not appreciating the difference in character of this region from that of the Missouri valley.[1] A few years of unusual rainfall encouraged them to expect good crops of wheat and corn regularly. But as time went on and the droughts usual to this section again began to prevail, large numbers were compelled to abandon their holdings and seek homes elsewhere. Only such as were able intelligently to combine cattle and sheep husbandry with small fields of grain could remain and make a living. Seeking some cause for their misfortunes other than poor judgment and ignorance of scientific methods of agriculture, these farmers were inclined to hold the railroads responsible for their unfortunate condition, and they united with the farmers of the eastern section of the state in demands for more vigorous control of the railroad monopoly. The governor, in his message at this session of 1883, urged the establishment of the commissioner system of control, insisting that it was the best method of dealing with the problem that had yet been devised and that it was growing steadily in popular favor. Bills embodying all forms of control were introduced, including one to strengthen the law of 1881, and propositions appeared for commissions with different degrees of authority. The commission idea seemed to be in favor with the railroad committees of both houses; and a bill providing for the establishment of rates by such a body reached the conference stage and was reported back favorably by a majority of the committee, but failed to pass in either house. The first few days of the legislative session of 1885 saw the introduction of a batch of railroad bills of every description. Governor Dawes, in his message, expressed it as his belief that "the relief demanded is to be had through a board of commissioners properly constituted and clothed with power to arbitrate and decide between

[1] Smalley, in *The Forum*, XXI, 488.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the people and the railroads upon existing matters of difference." The unsatisfactory measure finally passed, which created a commission without the rate-making power, was a compromise, and was plainly the only proposition that could secure sufficient support to be enacted into law. Those who stood for a strong commission were obliged to yield a part of their plan to secure the support of the radicals who advocated the reënactment of the law of 1881 with strengthening clauses.[1] Many considered the constitutionality of the commission system doubtful, and were strengthened in their opposition by the fact that their constituencies had expressed themselves against the plan in the election of the previous fall. A constitutional amendment, providing for a board of railroad commissioners elected by popular suffrage, had been submitted to the people, but had been defeated by a vote of two to one.[2]

The law of 1885,[3] based upon the Iowa law of 1878, created a commission charged with the duty of making the law of 1881 effective. The board was to consist of the attorney-general, the secretary of state and the auditor of public accounts, each of whom had the power to appoint one secretary to assist the board in the performance of its duties. These secretaries were granted the same power of investigation that the members of the board enjoyed, final decision to rest with the board. It was the evident intention of the legislature that the secretaries should be men experienced in railroad matters and that the

[1] The following is an example of the manner in which the more radical anti-monopolists expressed themselves against railroads. It is the explanation by a member of the House of his vote in opposition to the law of 1885. "Senate File No. 187 creates a syndicate of tax-eating sinecure clerks, draped with the livery of righteousness that they may the more effectually serve the devil. It is the uncanny spawn of a *mesalliance* between unsophisticated virtue and presumptuous hypocrisy."

[2] Section 26 of the constitution of the state declares that "No other excutive state office shall be continued or created, and the duties now devolving upon officers not provided for by this constitution shall be performed by the officers herein created." The supreme court of the state decided in the January term of 1884 that the legislature had no power under the constitution to create railroad commissioners. The supervision of railroads by a commission would be proper, but the power must be conferred on executive officers already existing.—15 Nebraska, 679.

[3] Chapter 65, Laws of 1885, approved March 5, 1885.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

burden of the work should fall upon them. In this way the state officers would not be overburdened by the addition of these new duties; and at the same time a more or less independent commission would be created without a violation of the state constitution. The board was given power to inquire into the conduct and management of railroads, to issue subpœnas, to administer oaths and to examine under oath with the same power to enforce obedience as pertains to courts of law. The railroads were required to make reports annually to the board, and these reports were to be submitted to the governor. Each report was to contain (in addition to the usual information about capital stock, cash value, operating expenses and earnings) schedules of the rates of freight and of passenger fares in force on the road. The commission was empowered to entertain complaints of any character against the roads, including charges of unreasonable rates and discriminations; and the courts could be called in to enforce decisions of the board, if the complaints proved to be well founded after fair hearing. The commission was in existence only two years — too short a time to establish a definite policy. Nevertheless, it investigated a great many complaints, formal and informal, proceeding always on the principle that the board should be an easy means of communication between shippers and carriers.

One feature of its history is worth noting — the interpretation of the long and short haul provision of the law of 1881. This section read as follows: "No railroad company shall demand, charge, collect or receive for such transportation for any specific distance, a greater sum than it demands, charges, collects or receives for a greater distance." This clause the board accepted in its literal meaning, holding that

> a company cannot charge for a specific distance anywhere on its line in Nebraska a greater sum per unit than it charges for a greater distance anywhere in the state, no matter from what point or station the freight originates, or to what points or stations it is delivered, on the same class of freights.[1]

[1] Report of the Board of Railroad Commissioners, 1886, p. 30. See also pp. 38, 48, 87–93 of the same report. The same question arose in Kansas in the first

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The effect of this interpretation was totally to disregard dissimilarity of conditions and to establish a uniform mileage rate. It is hardly conceivable that the people who sought the advantages of competitive rates could have intended that this section should be so interpreted. Under the existing condition of industry and commerce, it may have been a matter of little consequence whether special rates were prohibited by law; for most of the products were shipped out of the state on rates over which the board had no control. It is natural to suppose, however, that the legislators had in mind the probable future development of the state. The absurdity of the principle would have been readily appreciated if it had been applied to interstate commerce. While the commission undoubtedly accomplished some good during its short life, in acting as an arbiter between the people and the railroads, it lacked the power to carry out the primary demand of the people — the reduction of rates. The commission took the position that, so long as the law of 1881 remained in force, it was not justified in declaring rates below this maximum to be unreasonable or extortionate. The railroads did not exceed this limit after the establishment of the commission. The average rates for local transportation were, in fact, below the limit; but the population had greatly increased since 1881, and the traffic had grown correspondingly. It was the opinion of the commission that the railroads could in 1886 carry freight at a profit under lower rates than the law of 1881 prescribed. It therefore asked for the power to prescribe maximum rates that would be suitable to existing industrial conditions.

This request met with a ready response. By the opening of the legislative session of 1887, a majority of the people had become convinced that the law of 1885 was unsatisfactory and must be either amended or repealed. The struggle over methods of control was waged by the extremists of both sides: the issue was between those who advocated maximum rates pre-

year of the history of the commission of that state, and was interpreted in the opposite manner. See First Report of the Kansas Board of Railroad Commissioners, 1883, p. 27.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

scribed directly by the legislature and those who were in favor of permitting the railroads to make their own rates, limited only as to illegal practices by a commission of the advisory type. It was the desire of both factions to avoid a repetition of the experience of the previous two years. The outcome was the passage of the law, approved March 31, 1887, which created the Board of Transportation. This board was to consist of eight members, five of whom were state officers — the attorney-general, the secretary of state, the auditor of public accounts, the state treasurer and the commissioner of public lands and buildings. The membership of the board was completed through the appointment by these members of three secretaries, who were empowered in all matters of examination and investigation to perform the duties prescribed for the board itself. With the increase of the number of members elected by popular suffrage, the advocates of the plan hoped to make the board more nearly an expression of the people's will. In this way they thought they would be able to shift the struggle which they had been waging against the roads for a reduction of rates to the shoulders of a small body that could reasonably be expected to bring the fight to a speedy and successful conclusion. This measure was based on the Interstate Commerce Act, and many of its provisions were adopted from that statute without change. By its provisions all charges for transportation were to be reasonable and just, and all forms of discrimination were prohibited. The long and short haul and the pooling clauses of the Interstate Commerce Act were incorporated entire. The companies were required to publish schedules of rates which were to be their maximum charges for transportation, and no advance could be made on these rates without ten days' notice. Annual reports containing complete statements of the condition of the roads were required. The procedure in cases of violation of law was the usual one. The complaint was first to be presented to the board by brief petition, which was to be forwarded to the company complained of. Should the complaint prove to be well founded, the board was to make a thorough investigation in such manner as it saw fit. Its finding, with a recommenda-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tion, was to be forwarded to the carrier; and if the carrier refused to obey, the procedure was to be by petition in a court of equity, the findings of the board to be *prima facie* evidence of all the facts found. Provision was made for hearings to investigate all questions of neglect of duty and violation of law. Witnesses could be subpœnaed and books and papers produced; and in cases of disobedience suits could be instituted by the attorney-general or a county attorney, who could apply to a district court or to the supreme court for a writ of mandamus.

Question at once arose as to the power of the board to declare rates unreasonable and to establish reasonable rates. The official determination of this question was made possible by a case which arose soon after the board entered upon its duties. On July 6, 1887, the Lincoln Board of Trade and Freight Bureau filed a complaint against the Fremont, Elkhorn and Missouri Valley Railroad Company, charging the corporation with discrimination in freight rates against Lincoln and other points in the state. The matter was regarded as important, and all the railroads operating in the state were invited to be present at the hearing. Much evidence was taken, and the question of the board's jurisdiction was discussed. It was shown that, before this statute was passed, shippers had enjoyed the privilege of appeal to the courts for the determination of the reasonableness of a rate charged in a given case after the rate had been paid, the railroad being limited to the maximum rates prescribed by the legislature in the statute of 1881. The evident intent of the act of 1887 was to furnish the shippers a more expeditious and less expensive remedy, and to create a control more efficient in its general scope and character. It was conceded by all the railroads that the board had the right to declare rates unjust and unreasonable. The board held, however, that the statute conferred power to determine the extent of the injustice and unreasonableness. The outcome of the investigation was the promulgation by the board of an elaborate schedule of local maximum rates to which the defendant was ordered to conform. The reduction provided by this schedule

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

amounted to a general average of 33⅓ per cent, and was said to be the most sweeping and far-reaching reduction ever made by any board of railroad commissioners in the United States. The defendant refused to obey the order of the board, and an application for a writ of mandamus was made to the Supreme Court of Nebraska. The court reviewed the finding of the board, upheld its authority to make just and reasonable rates, and held that the new schedule was reasonable and should be enforced.[1] Meanwhile the railroads, realizing that the enforcement of these rates in Nebraska would mean a corresponding reduction in the states to the west, proposed a compromise. The principal railroads of the state, the Burlington and Missouri River, the Fremont, Elkhorn and Missouri Valley, the Union Pacific and the Missouri Pacific, agreed to lower their important rates on interstate shipments — on coal from Chicago to Nebraska points, on grain from Nebraska to Chicago and common points, and on lumber from eastern and northeastern points to Nebraska stations — in return for a distance tariff to be operative on all Nebraskan roads. The proposition was accepted; and the compromise tariff, which was neither so high as the maximum schedule of 1881 nor so low as that issued by the board, was put into effect November 1, 1887. This tariff, with the exception of a few reductions since made by the board, has been maintained up to the present time without change.

The board had used its power over local rates to compel a lowering of the through rates which were vital to Nebraska's industrial advancement; but that the real service performed by the board in compelling a reduction of interstate rates was not appreciated by many of the people, was evident as soon as the legislature had assembled in 1889. The board was required by resolution to submit to the Senate a comparative statement of freight rates in effect on the railroads in Nebraska. It was pointed out, as soon as the statistics were before this body, that the rates were far in excess of those charged in Iowa and Illinois, and that this operated as an unjust discrimination

[1] 35 N. W. Reporter, 118.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

against farmers, graziers, manufacturers and merchants of Nebraska. The general narrowing of profits and the increase of mortgage indebtedness were dwelt upon, and it was implied that the railroads were in part responsible. "There are two classes of men," it was said, "who seem above the reach of adverse financial fortune — money lenders and railroad owners."[1] It is significant that these charges were made in the same resolution in which the legislature was asked to memorialize Congress for an increase in the circulating medium. No railroad legislation was enacted at this session; but it was clear that trouble was brewing and that the radical faction could not be restrained much longer.

The board, appreciating how general was the discontent throughout the state with the existing rates, invited all interested in the question of reasonable freight tariffs to attend a public meeting on May 21, 1890. Although the invitation was given general publicity through the press of the state, there appeared on the day appointed very few citizens to voice the sentiment which had been the occasion of the meeting. Representatives of the Lincoln and Hastings boards of trade were almost the only representatives of the people who came to assist the board in substantiating or disproving the assertions of newspapers and individuals that the existing maximum rates were exorbitant in relation to the cost values of the roads. Railroad managers and counsel appeared to defend the prevailing rates. It is, of course, possible that people hesitated to testify openly for fear of railroad oppression. It may be that they felt that the board was predisposed to favor the corporations, and that no testimony which they could offer would carry any weight. The general feeling at the meeting seemed to be that the agitation was the work of demagogues, who could not substantiate their charges if they would. The evidence offered seemed to disprove the existence of unreasonable rates and railroad extortion. It was the opinion of the secretaries that a large part of the Nebraska mileage was in a condition demanding considerable annual expenditures to meet the requirements of a

[1] Senate Journal, 1889, p. 200.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

rapidly increasing volume of business. Provisions for securing the safety of the travelling public, for improving the channels of commerce and for granting to all equal facilities and the greatest accommodations, were regarded by them as more in accord with the purpose of sovereign regulation and control than strict adherence to charges affording no more than a low rate of income on railway investments. They concluded that five to six per cent per annum was a reasonable rate of earnings, and that seven per cent would not be extortionate for the period intervening between the time of beginning operations on a newly constructed road in a partially developed country and the time when an increase of traffic to a point somewhere near the road's capacity had brought it to first-class condition.[1]

The secretaries were instructed by the board to secure from the Nebraska roads sworn statements of the detailed cost of lines and betterments and of the annual gross earnings, operating expenses and taxes, for the years 1886 to 1889 inclusive, distributed as to freight, passenger and other sources. The companies from which the information was asked were the Fremont, Elkhorn and Missouri Valley, the Chicago, St. Paul, Minneapolis and Omaha, and the Burlington and Missouri River in Nebraska. Of the Union Pacific only such information was requested as related to its proprietary and leased lines,

> it being obvious to all persons in any way acquainted with the iniquitous robberies perpetrated by the builders of that road, that no figures of the earnings and operating expenses of that part of the road in Nebraska could possibly be ascertained. The large extent of the system, lying as it does in valleys, through and over mountains, and across great stretches of undeveloped country, is productive of so many varying conditions of traffic, expense and earnings, that an apportionment of these items between certain divisions of the road separated by merely imaginary lines, is an utter impossibility.

This information, with possibly one exception, was given without apparent unwillingness. Upon the basis of the sworn statements of the roads as to cost and earnings, the board con-

[1] Report, 1890, p. 115.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

cluded that, from the standpoint of reasonableness of rates to both shipper and carrier, a reduction of the existing schedule of maximum rates was not advisable. It declared that the difficulty with the existing state of affairs was to be found in over-building; that a third less mileage would afford equally well the accommodation required by the public; that with such a reduction in mileage there would be some fifteen millions less capital demanding of the public an income, and that rates might be reduced accordingly; but that it appeared doubtful whether any community possessed of these roads would be willing to surrender them for the advantage of lower rates.[1] The investigation thus resulted in a decision to do nothing; and this could hardly be expected to satisfy the radicals. The leadership in the fight for more vigorous control was assumed by the People's or Independent party, organized in July 1890 by the consolidation of the State Grange, the Farmers' Alliance and the Knights of Labor. The orators of this party insisted that the existing rates were ruinous to the farming interests; that the railroad system, as managed, was a system of spoliation and robbery; and that the enormous bonded debt of these corporations at fictitious valuations was absorbing the substance of the people in the interest of the millionaires.[2] On May 24, 1890, Governor Thayer issued a proclamation, calling a special session of the legislature and proposing among the subjects for legislation the establishment of maximum freight rates and the abolition of the state board of transportation. Opposition from his own party and doubt as to the legality of the session, however, led to the revocation of the proclamation.

Governor Boyd's message to the legislature of 1891 recognized that the railroad question would be one of the most important subjects of discussion during the session. The governor favored a constitutional amendment which should create a

[1] See comparative table of freight rates for the Western states and rates from Chicago to Nebraska points for ten years. — Report of 1890, p. 183.

[2] See platform of the party, adopted in convention July 29, 1890, in Appleton's Cyclopædia for 1890 under "Nebraska."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

non-partisan commission with power to prescribe rates, and he declared that the existing commission possessed that power but had never exercised it. He urged that, if the legislature thought it advisable again to undertake to establish rates, it should confine its interference to a limited number of commodities in carload lots. The legislature, which was in control of the Independents, disregarded this advice and prepared an elaborate bill which reduced the rates then in existence to an extent varying from 40 to 60 per cent. Bitterness of feeling reached its climax in the discussion of this measure. The Independents were accused of advocating the bill merely to promote partisan ends, and the supporters of a more conservative policy were charged with receiving bribes from the roads. The bill passed the House easily, for the Populists had there a working majority, but it caused a deadlock for three days in the Senate. It finally reached the governor, and was returned without his signature on the day before the close of the session. He insisted that, if the rates prescribed in this bill were enforced, they would bankrupt every road in the state. These rates were based upon the lowest rates in force in Iowa; but the Iowa rates were fixed by a commission, and were therefore capable of change, while these were inflexible. The advocates of the measure failed to take into account the fact that Iowa had nearly double the acreage in cultivation,[1] and almost twice the population, with only about two-thirds the extent of territory and less than double the railroad mileage. The governor stated that he had received letters and petitions from all sections of the state and from men of all classes and conditions; and that those who represented and controlled the commercial, manufacturing, financial and

[1] *1890.*

	Iowa.	*Nebraska.*
Number of acres of improved land	25,428,899	15,247,705
Population	1,911,896	1,058,910
Area, square miles	56,025	77,510
Mileage	8,602	5,300
Tonnage (estimated in Nebraska)	18,832,966	6,700,000
Inhabitants per square mile	34.1	13.7
Square miles of territory to mile of railroad	6.5	14.6

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

industrial interests and those who had given the question close study, were nearly unanimous in opposition to the measure. The bill was passed over the governor's veto in the House but failed in the Senate.

The check received by the Populists served only to infuriate them and to increase the bitterness of their attacks and the intemperance of their language. The board determined to make another and more thorough investigation of the entire question; for it was impossible to believe that this persistent denunciation could be purely factious, and that no basis existed for the complaints so generally made. Accordingly, three public meetings were held during August, 1891, in different parts of the state. Invitations to the general public were extensively circulated in the papers of the state; and special invitations were sent to prominent men interested. At these meetings the advocates of lower local rates were the manufacturers and jobbers of the cities, who hoped to build up a local trade such as Iowa enjoyed. The railroads contended that Nebraska was primarily an agricultural state and that, in order to maintain the prosperity of the producers, it was necessary to offer low through rates on grain shipped out of the state and on manufactures carried in. The local rate, they said, was a matter of less importance. The few farmers present at the hearings supported, almost without exception, the contentions of the railroads. No complaint whatever was made in any of these meetings of the interstate rates on grain, live stock or coal.[1]

A careful review of the evidence was presented by the secretaries in the following September. They called attention to the very obvious fact that a low rate for the long haul was the life of Nebraska business; that a large proportion of the industrial element of the state was agricultural; that of all freight paid on all articles bought and sold in a whole year's transactions of the ordinary farmer, the short haul freight was only one-quarter of one per cent. Seventy per cent of all the commerce of the state consisted in grain, coal, lumber, live stock and meat products, while less than one per cent of the grain, coal

[1] See tables of freight traffic movement in Report of 1892, p. 203.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and lumber traffic was local business, because the state had no forests or mines and there was small local demand for grain shipped by rail. The principal argument against the reduction of local rates was not based on the expected effect upon railroad earnings in Nebraska, for the Nebraska business was mainly interstate, but on the expectation that a demand would immediately arise for a similar reduction in rates in the states to the west of Nebraska, where sparse settlement and light tonnage required higher rates and where local distributary rates were of more importance. Such a reduction, it was contended, would react to produce an increase in interstate rates. The report demonstrated statistically that the local rates in force in Nebraska were as low as those of other states similarly situated; that the coal rates of Nebraska were lower than those of any other Western state; that the rate on wheat shipped for milling purposes compared very favorably with the Iowa rate; that the rate on live stock to the markets of Lincoln and Omaha was lower than the local distance rate and as favorable as that of Iowa; that all of the grain went out of the state on a rate which was far better than Iowa enjoyed, as was shown by the complaints of the Iowa farmers. The board discussed this report carefully and, not content with accepting the statements of the railroads as to the original cost of their lines and the amount of stock and bonds issued, made careful computations as to the actual value of railroad property. It reached the conclusion that the rates could not be reduced without serious injury to both the shipping and the producing class. It said, however:

> Should conditions change so that railroad investments could be made to pay more than a fair percentage on actual values, then it would be not only right but exceedingly fit that a general reduction be made; nor would this board hesitate to so order and enforce such an order with all the means at its command.

The message of Governor Boyd to the legislature of 1893 defended his veto of the law of 1891. For this veto he had been denounced by the Populists, and had been charged with perpetrating an outrage in the interest of the railroads. He

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

stated that a year after his veto he had secured by correspondence the views of every member of the legislature, with the purpose of calling an extra session if he found a majority disposed to less radical action; but that, from the replies he received, he became convinced that a moderate measure of reduction such as he could approve could not pass. He renewed his recommendation for an elective commission that should be directly responsible to the people; and the same plan was advocated by his successor, Governor Crounse. An amendment providing for the execution of such a plan had, however, failed to receive the requisite vote in the election of the previous fall, because of the opposition of the Populists; and this party held the balance of power in the session of 1893. All measures submitted during this session for moderate control of railroads were promptly voted down. Arguments proving that the effect of a sweeping reduction in rates would be to raise interstate rates, to stop railroad building and to throw men out of employment, were contemptuously cast aside as railroad buncombe; and the remonstrance of twenty thousand railroad employees was wholly disregarded. The Populists combined with the Democrats and passed the measure known as the Newberry maximum rate law, which has recently been a subject of adjudication by the supreme court.

We may pause here for a moment to consider the causes of this suddenly developed hostility to railroads in Nebraska. Though the opposition had been increasing steadily in its bitterness since the early eighties, it had but recently acquired the momentum which enabled it to carry its projects to a successful culmination. In the first place, there is to be noted the development of a public sentiment favoring free coinage of silver and government ownership and operation of natural monopolies and of quasi-public works, and protesting against the growing power of the courts. With the organization of a party pledged to these principles, the political agitator has come to the front; and he has succeeded, by the very force of his enthusiasm and intemperance, in exerting a tremendous influence upon the farming community. He has had no difficulty in making the farmers

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

believe that the railroads are their natural enemies and are exploiting the producing classes for the purpose of increasing their revenues. All this, however, is only on the surface. This economic discontent is due — in part, at least — to some underlying causes which have materially lightened the labors of the agitator. The farmers have suffered severely from crop disasters, the western part of the state being especially subject to drought. Since 1890, largely as the result of effective foreign competition, there has been a steady fall in the prices of farm products. This situation has been the more serious because the farmers have been unable to meet it by lowering the cost of production. The burden of mortgage indebtedness has become heavier, and the number of mortgage foreclosures has increased. The farmers have been easily persuaded to believe that the railroads are responsible for their unfortunate condition — that they are so far from the market as to be unable to make a profit after paying the cost of transportation on their products. The farmers of Nebraska have complained especially because the railroads have granted the producers of Iowa better rates than they have enjoyed; and the radical measures already considered were framed with the idea of introducing the Iowa rates into Nebraska. But these farmers have failed to realize the part that tonnage must play in the determination of rates. The larger population of Iowa, resulting in heavier tonnage, has made a lower rate possible there. Moreover, the hauling of empty cars, in which the cost of motive power is practically the same as when the cars are loaded, has formed a larger part of the tonnage in Nebraska than in Iowa. The shippers must expect to share the increased cost of transportation resulting from temporarily limited tonnage during the transitory stage, in order that they may profit by the lower rates when the state has reached a stage of more complete industrial development.

The Newberry maximum rate law, approved April 12, 1893,[1] was a reënactment, in a somewhat modified form, of the act which had failed of executive approval in 1891. It laid down an extended classification of freight, which was different

[1] Laws of 1893, chapter 24, p. 164.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

from that in use on the roads west of Chicago at the time; and it prescribed a detailed schedule of maximum charges, which reduced the rates in force by an average of 29½ per cent. Such roads as had been built after January 1, 1889, were to be exempt from the provisions of the act until December 31, 1899. Unique and wholly indefensible was the provision which was supposed to grant relief to roads that found the rates burdensome. Any road which felt that the tariff was unreasonable could make application to the supreme court of the state; and if this body was satisfied that the rates, so far as they applied to the railroad company petitioning, were unjust, it might direct the board of transportation to permit the road to raise its rates in the discretion of the board, provided that the new tariff should not exceed that in force on January 1, 1893, when the law went into effect. Nothing can be said in favor of this attempt to force executive duties upon the supreme court. The railroads had always had the right to proceed by injunction in a court of equity when rates were unreasonably low, and this gave them no added security; nor was it a method which they were likely to employ to obtain relief. Further, it practically deprived the board of all discretion in the adjudication of rate questions, and thus removed the principal reason for the existence of this body. The only freedom of action with which the legislature ventured to intrust the commission was that of lowering rates or changing the classification so that it would reduce rates, but it could not raise rates above the maximum fixed by the statute. For violations of the statute, penalties were prescribed which, in addition to liability to individuals for damages, included fines that ranged from $1000 to $25,000.

This law was to have taken effect on the first of August, 1893. During the latter part of July, however, suits were instituted in the Circuit Court of the United States for the district of Nebraska, by the stockholders of the Chicago and Northwestern, Union Pacific, Chicago, Burlington and Quincy, Missouri Pacific, and Chicago, Rock Island and Pacific, against the railroad companies and the board to prevent the rates from

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

becoming operative. A temporary injunction was granted in each case. The cases were argued in June, 1894, at Omaha, before Justice Brewer of the United States Supreme Court with Judge Dundy as associate. Decision was rendered in November. The main question at issue was the reasonableness of the rates prescribed by the legislature. Justice Brewer recognized the difficulty of determining a test for reasonableness. A reasonable percentage on the investment, said he, is not always an accurate test; for investment may include "injudicious contracts, poor engineering, unusually high cost of material, rascality on the part of those engaged in the construction or management of the property," and may be far in excess of the actual value of the property. Actual value of property is a good test, but this is not always easy to determine.

> There is [he concluded] no hard and fast test which can be laid down to determine in all cases whether the rates prescribed by the railroads are just and reasonable. . . . Obviously, however, the effect of the reduction upon the earnings is the first and principal matter to be considered.

The matter was complicated by the fact that the companies were doing interstate as well as local business. The rule laid down by Justice Brewer was as follows:

> We must ascertain what it costs to carry this local freight — what the receipts have been therefrom, and what reduction will be made in such receipts by the application of this act; and then we must take such proportion of the gross investment in the roads as the present earnings from local freights bear to the total earnings of the roads. From these computations we may see whether the reduction made by this act in the local freights, if applied to all the company's business, would leave any compensation to the owners, and if so, how much.

With this rule as a guide, he examined the statistics presented in the testimony of the defendants by Mr. Dilworth, secretary of the board of transportation, showing tonnage, receipts and expenses of the roads operating in the state and estimates of the effect of the introduction of the new rates. He quoted Mr. Dilworth's statement that the new rates showed a reduction

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of 29½ per cent from those previously in force; pointed out the fact that the year 1892, upon which estimates were based, was the most favorable of the three years for which figures were given; and declared that a statutory and fixed tariff made no provision for the contingency of prostration of business, which had actually come upon the state since the passage of the statute under discussion. He maintained that a comparison of Iowa and Nebraska tariffs was of little value, unless all the elements that entered into the problem, such as relative population and tonnage, were presented; and insisted that the reasonableness or unreasonableness of rates prescribed by a state must be determined without reference to the interstate business done by the carrier. The state of Nebraska, he said, could not legally require local freight business to be conducted at a loss, even if the company earned on its interstate business enough to give it just compensation in respect to its entire line and all its business, interstate and domestic. "If it would be unreasonable to reduce the total earnings of these roads 29½ per cent, it is, *prima facie* at least, equally unreasonable to so reduce any single fractional part of such earnings." After an exhaustive examination of all the data submitted, Justice Brewer concluded that, having regard to the existing condition of affairs in the state, the amount of business done over the roads and the probabilities of an early change in the volume, a reduction of 29½ per cent in the rates for local freight was unjust and unreasonable to the investors. The temporary injunctions were made permanent. The opinion ended with the following consolatory statement for the defendants:

> It may be said, even if furnishing no reasonable remuneration to-day, the result might be different under an increase of business. That, of course, is possible; and it may be that as the volume of business increases, the time will come when the rates fixed by this House Roll 33 will be reasonable and just. So, there should be entered as a proviso to the decrees, that leave is reserved to the defendants at any time that they are so advised, to move the court for a reinvestigation of the question of the reasonableness of these rates.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The board, believing that Justice Brewer had adopted a wrong method for the ascertainment of reasonable rates and desiring that a decision of this important question should be made by the court of final jurisdiction, appealed the case. It was argued before the Supreme Court of the United States March 4 and 5, 1896, and reargued April 5, 6 and 7, 1897. Decision was rendered March 7, 1898, and the opinion of the circuit court was affirmed.[1]

Despite the repeated assertions of the press to the contrary and the protests of the anti-railroad agitators as to the growing power of the courts, the opinion in this case contains no new principle whatever. To make this evident, and to put in clear light the position which the supreme court has steadily and consistently maintained, it will be necessary to review briefly the history of judicial decisions covering the relation of the state to railroads. The Granger cases in 1877 settled the right of the state to establish limitations upon the power of railroad companies to fix the prices at which they should carry passengers and freight.[2] There was no decision in these cases as to the extent of control, but only as to the right of control. The Railroad Commission case in 1886, while affirming the previous decisions, plainly intimated that the right of control enjoyed by the state was limited.[3] Chief Justice Waite, who delivered the opinion, said:

> Under pretense of regulating fares and freights, the state cannot require a railroad corporation to carry persons or property without reward; neither can it do that which in law amounts to a taking of private property for public use without just compensation or without due process of law.

This limitation of the power of a state legislature was again asserted in Dow *vs.* Beidelman, two years later.[4] In this latter case the charges for transportation prescribed by the state were

[1] Smith *vs.* Ames, decided March 7, 1898.

[2] Munn *vs.* Illinois, 94 U. S. 113; C. B. & Q. *vs.* Iowa, 94 U. S. 115; Peik *vs.* C. & N. W. 94 U. S. 164.

[3] Stone *vs.* Farmers Loan and Trust Co., 116 U. S. 307.

[4] 125 U. S. 680. See also Georgia Railroad and Banking Co. *vs.* Smith, 128 U. S. 174.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

upheld, the court stating that it had no means of determining that the rates fixed by the legislature were unreasonable, "if it would under any circumstances have the power." This last clause seems to indicate that the court foresaw the possibility of being obliged later to make thorough investigations for the purpose of determining reasonableness.

Then came the Minnesota case of 1890, in which it was decided that, to be reasonable, rates must be remunerative, and that reasonableness was eminently a judicial question requiring due process of law for its determination.[1] This case was new, in that it had no reference to rates prescribed directly by the legislature. A commission enjoying delegated powers had fixed the rates, and the state courts, holding that these rates were final, had refused to entertain an application from a railroad company for a writ of mandamus. In Chicago and Grand Trunk *vs.* Wellman, in 1892,[2] it was made clear that the limit of judicial interference in the action of the state in matters of this kind was protection against unreasonable rates. The constitutionality of the law was the only question passed upon. Questions of fact were not discussed; but the justice, in his opinion, took occasion to warn the court against declaring legislative acts unconstitutional upon agreed and general statements and without the fullest disclosure of all material facts. This can certainly be interpreted as an announcement of the intention of the court to investigate facts fully whenever necessary, although occasion for such action had not yet arisen.

The first necessity for resort to this expedient arose in Reagan *vs.* Farmers Loan and Trust Co., in 1894,[3] in which the court was called to decide upon the reasonableness of rates prescribed by the Texas railroad commission. Cost of road, value, amount of stock and bonds, earnings and operating expenses were all taken into account. The court enjoined the commission from putting the rates into effect, since they were

[1] C. M. & St. P. Ry. Co. *vs.* Minnesota, 134 U. S. 418.

[2] 143 U. S. 339.

[3] 154 U. S. 362. See also St. Louis and San Francisco Railway Co. *vs.* Gill, 156 U. S. 649.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

so low as to amount to a deprivation of property without due process of law, but declared that it had no power to prescribe what was reasonable. Finally, in Covington and Lexington Turnpike Road Co. *vs.* Sandford in 1896,[1] the principle was reaffirmed, in no uncertain language, that the courts have power to inquire whether a body of rates prescribed by a legislature is unjust and unreasonable, such as to work a practical destruction of rights of property, and, if found so to be, to restrain its operation on the ground that such legislation is not due process of law.

The decision before us merely reaffirms the previous position of the court. Justice Harlan, who delivered the opinion, held that a state law, establishing rates for transportation by railroad that will deprive the carrier of just compensation, is repugnant to the Fourteenth Amendment, as depriving the carrier of his property without due process of law and denying to it the equal protection of the laws; that, while the state may fix rates of transportation, the question whether the rates are so unreasonably low as to deprive the carrier of its property without such compensation, cannot be determined by state statute or regulations thereunder so conclusively that the matter may not become the subject of judicial inquiry. The court went beyond previous decisions in two particulars, but in neither respect were the underlying principles modified or extended. In the first place, it examined more fully than any previous court had done tabulated statements of earnings, operating expenses, tonnage and the like, for the purpose of satisfying itself on the question of reasonableness. Furthermore, it attempted the difficult task of defining a reasonable rate. The court held that railroad rates should be fixed with reference to the fair value of the property used and of the services rendered; that they need not be calculated, on the one hand, merely to cover expenses, interest and dividends, nor should they be calculated, on the other, to realize profits upon an excessive valuation or a fictitious capitalization; that the public have a right to be exempt from unreasonable exactions

[1] 164 U. S. 578.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and that the interest of the corporation is not the sole test of the suitability of rates ; that a railroad corporation accepts its rights, privileges and franchises subject to the power of the government to protect the people by legislation against unreasonable charges by it, but cannot be required to use its property for the public without just compensation ; that to ascertain the value of any piece of railroad property, the cost of construction and improvements, the amount and value of its bonds and stock, its earning capacity and operating expenses are to be considered. The court stated, finally, that if industrial conditions should improve to such an extent as to admit of the application of the statute to the railroads without depriving them of just compensation, it would then be the duty of the lower court to discharge the injunction.

Many of us may deplore the active part which in recent years the courts have played in the administrative control of railroads. We are to explain this activity, however, not by the assertion that the courts have encroached upon territory not their own, but by realizing that, with the rapid increase in railroad facilities and with the increased number of attempts on the part of states to solve the problem of control, the defense of property rights, which has always been recognized as a legitimate function of the courts, has come to assume more importance among its list of duties. The court ably defends its position in the Nebraska case, in the following words :

> The idea that any legislature, state or federal, can conclusively determine for the people and for the courts that what it enacts in the form of law, or what it authorizes its agents to do, is consistent with the fundamental law, is in opposition to the theory of our institutions. The duty rests on all courts, federal and state, when their jurisdiction is properly invoked, to see to it that no right secured by the supreme law of the land is impaired or destroyed by legislation. This function and duty of the judiciary distinguishes the American system from all other systems of government. The perpetuity of our institutions and the liberty which is enjoyed under them depend in no small degree upon the power given the judiciary to declare null and void all legislation that is clearly repugnant to the supreme law of the land.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

As a consequence of this decision, the compromise tariff, which was put into operation November 1, 1887, is still in effect, subject to modification by the board of transportation.

The duties of the board have been increased to some extent since the passage of the law of 1887. By an act approved April 9, 1891, the creation and regulation of public warehouses and all matters connected with the warehousing, shipping, weighing and inspection of grain were intrusted to the board of transportation. It was empowered to appoint all officers, except the chief grain inspectors; to issue and revoke licenses and to fix salaries; to estimate grades and to prescribe charges; to inspect and to be responsible for the proper conduct of warehouses; and to punish all offenses. The law was defective in many particulars and has proved unsatisfactory in operation, but the legislature has thus far ignored the requests of the board for amendment. An act of July 10, 1897, gave the board authority to apply to all express, telegraph and telephone companies operating lines within the state the powers given it over railroad companies. It was required to regulate the charges for transportation by express, for transmission of messages by telegraph or telephone and for rental of telephones, and to exercise a general control over persons engaged in this business.

It is well-nigh impossible to estimate so soon the value of the service which the board of transportation has performed to the state. To do this fairly it will be necessary to wait until the bitter antagonisms aroused by the struggle have in part at least disappeared. As is evident from the events of recent years, the board has failed to satisfy a considerable element of the people. Twice have the legislators made determined attempts to rob it of its powers, and both times they have met with defeat — once at the hands of the governor, and again through the adverse ruling of the supreme court. The severe and often wholly unwarranted attacks of this ultra-radical faction can hardly be taken seriously as fair criticism of the board's policy. It seems to have been commendably conservative and always considerate of the interests of both shippers and carriers. It has recognized, as many another commission has not done,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

that the interests of the people and the corporations are identical, and that an injury to one will inevitably react upon the other. It has settled satisfactorily a great number of controversies. Most of them, however, have been of minor importance; for the fact that a very large proportion of Nebraska business is interstate in its character has limited seriously the usefulness of the commission. The unfortunate constitutional provision which makes it necessary to impose the duty of railroad control upon men already holding state office has been a serious impediment in the way of successful results. These officers are burdened with other duties and cannot give the subject the attention which it demands. They have left to the secretaries appointed by them, as it was no doubt the intention of the legislature that they should do, a large share of the labor and responsibility, and have retained only the power of final decision. This has divided responsibility and has without doubt served to increase the dissatisfaction of the people. Twice since 1890 has a proposed constitutional amendment, providing for a board of commissioners elected by popular suffrage, been submitted to the people, but in neither instance did the proposition receive a majority of all the votes cast. An elective commission would undoubtedly be a great advance upon the present method, but it is doubtful whether it would accomplish all that is expected of it in allaying strife and settling controversies to the satisfaction of both parties. In its report for 1887, the board felicitates itself and the people on the fact that the railroads have gone out of politics. The experience of other states seems to indicate that the passage of the amendment proposed would be the means of bringing them back again, and in a way that would be more obnoxious than anything yet experienced. A commission appointed by the governor with the consent of the Senate, on grounds of fitness, without regard to party affiliations, is much to be preferred. The solution of the problem by the state of Nebraska will be watched with interest.

FRANK HAIGH DIXON.

DARTMOUTH COLLEGE.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

SLAVERY IN EARLY TEXAS. II.

A NEW danger to the slave interest arose in 1829 in the form of a decree of general emancipation promulgated by the federal executive. In August of that year Vicente Guerrero, the president of the Republic, was invested by Congress with extraordinary powers for the purpose of driving out the Spanish army of invasion which had landed in Mexico.[1] For two years previous to this event, a bill, introduced and ardently advocated by the deputy José M. Tornel, had been pending in Congress, providing for the complete and final emancipation of all slaves in the Republic. It had been received "with applause" by the Chamber of Deputies; but, for some reason not stated by Tornel, its final passage had been delayed by the Senate.[2] Failing to get the measure through Congress, Tornel resorted to the more speedy method of winning over the now absolute Guerrero and carrying his point by means of an executive decree. He chose an opportune moment for pressing the matter. A very pretty custom had come to be observed by the Mexicans as a part of their elaborate celebration of their Independence Day. A portion of the money contributed to pay the cost of the celebration was usually spent in the purchase of a number of slaves; and in the midst of the festivities the president in person, publicly and with great solemnity, gave their freedom to these unfortunates. Slaves had, however, become so scarce in the region of the capital, that as early as 1826 there was difficulty in finding a number sufficient to make the ceremony impressive.[3] Tornel, accordingly, urged the extension of the benefits of the annual custom to the slaves of the whole Republic. Guerrero yielded, and the decree was signed on September 15, 1829. Its three short

[1] Dublan y Lozano, Legislacion Mexicana, II, 151.
[2] Tornel, Breve Reseña Histórica, p. 85.
[3] Ward, Mexico in 1827, I, 36.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

paragraphs declared that slavery was abolished, that all negroes were henceforth free and that owners would receive compensation at some future time.[1]

This decree had its inception in Tornel's hostility to the United States.

> In the abolition of slavery [he said] is involved the important political object of establishing a barrier between Mexico and the United States, where slavery is maintained in open contradiction to the principles solemnly proclaimed in their Act of Independence of 1776.[2]

But it is not to be inferred that such hostility was general in Mexico; we must be careful not to refer events of that time to causes and motives that as yet had no widespread existence. A few far-seeing leaders may have appreciated the danger ahead, but it required the developments of several years more to arouse the nation at large. It will be remembered that, in spite of Tornel's advocacy and the absence of an interested opposition, the Senate had declined to establish this barrier between the two countries by emancipating the slaves in Texas. All that can be said is that in 1829 the sentiment against the United States was growing, and that it was at least present in the mind of Tornel when he persuaded Guerrero to issue the emancipation decree.

The decree at once produced the usual commotion in Texas. "We are ruined forever should this Measure be adopted," wrote John Durst to Austin immediately after the news reached Nacogdoches.[3] There seems to have been a spontaneous movement in different quarters to prevail upon the Mexican officials not to publish the decree. Durst presented the matter to the civil and military authorities of Nacogdoches — where, it should be kept in mind, the Mexican influence was very strong — in such a manner that they agreed to suspend publication until a suitable memorial could be sent to the governor.[4] Two weeks

[1] Dublan y Lozano, Legislacion Mexicana, II, 163.
[2] Translated from Tornel's Breve Reseña Histórica, p. 85.
[3] Durst to Austin, November 10, 1829. — Austin Papers, E 15.
[4] *Ibid.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

later, he wrote that the ayuntamiento still adhered to its former position, but that he knew not at what moment it would change front; for the Mexican commandant possessed much influence and might, if he chose, arouse a strong opposition.[1]

Austin, to whom in such difficulties all Texas looked for leadership, took a similar view of the situation. In reply he wrote to Durst:

What the people of Texas have to do is to represent to the Government through the Ayuntamientos or some other channel, in a very respectful manner that agreeably to the constitution, and the colonization laws *all* their property is guaranteed to them without exceptions in the most solemn and sacred manner. That they brought their slave property into the country and have retained it here, under the faith of that guarantee, and in consequence of a special invitation publically given to emigrants by the government in the colonizacion law to do so. That they have taken an oath to defend the constitution, and are bound to do so. That the constitution of the state expressly recognizes the right of property in slaves by allowing six months after its publication for their introduction into the State. That they *will* defend it, and with *it*, their property.

There ought to be no vociferous and visionary excitement or noise about this matter. Our course is a very plain one — calmn, deliberate, dispationate, inflexible, *firmness;* and not windy and ridiculous blowing and wild threats, and much less anything like opposition to the Mexican Constitution, nothing of this kind will do any good, it will in fact be unjustifiable, and will never be approved of by me but on the contrary opposed most decidedly. I will *not* violate my duty as a Mexican citizen.

The constitution must be both our shield, and our arms; under *it*, and with *it*, we must constitutionally defend ourselves and our property. . . .

If he [the political chief of Bexar] should finally be compelled to publish and circulate it, the Ayuntamientos must *then* take an unanimous, firm, and *contitutional* stand. The people will unanimously support them.

I know nothing of the men who compose the Ayuntamiento of Nacogdoches, if they are true patriots and true friends to themselves and to Texas, they will not suffer that decree to be published or circulated in that Municipality and they will take the stand I have

[1] Durst to Austin, November 24, 1829. — Austin Papers, E 183.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

indicated or some other that will preserve the contitution and our constitutional rights from open, and direct violation.

These are my ideas on the matter. I have said the same to my friends in Bexar, and when the decree arrives officially, (which it has not yet) I shall say the same to the Govt. What I do in this matter will be done openly. Mexico has not within its whole dominions a man who would defend its independence, the union of its territory, and all its constitutional rights sooner than I would, or be more ready and willing to discharge his duties as a Mexican citizen; one of the first and most sacred of those duties is to protect my constitutional rights, and I will do it, so far as I am able. I am the owner of one slave only, an old decriped woman, not worth much, but in this matter I should feel that my constitutional rights as a Mexican were just as much infringed, as they would be if I had a thousand, it is the principle and not the amount, the latter makes the violation more agravated, but, not more *illegal* or unconstitutional.[1]

This lengthy quotation from Austin's letter to Durst is here inserted, because it is believed in some quarters that the people of Texas on this occasion willfully defied the government of Mexico, relying for aid, in case of need, on the United States.[2] The letter, however, shows that the Texans were fighting a battle of their own, and that their resistance to the decree was only an episode in the internal history of Mexico, without any connection whatever with the politics or visions of the slave-holding portion of the United States. The revolutionary spirit was not yet abroad in Texas. Stephen Austin, in the above extract, spoke the sentiments of the best and most influential element among the settlers. They believed that their constitutional rights as Mexican citizens had been trampled upon

[1] Austin to Durst, November 17, 1829. — Austin Papers, E 15.

[2] One cannot read such works as Von Holst's and Schouler's on this subject without necessarily connecting the introduction of slaves into Texas with a kind of tacit understanding between the United States and Texas that the latter should be wrested from Mexico. Yet Von Holst, referring to the immigration of the slave-owning colonists into Texas, naïvely remarks: "In this, the heads of individual persons may have been haunted by far-reaching projects; but I can find no support for the assertion, that back of it there was a definite plan of the 'south.'" (History of the United States, II, 553.) The heads of the colonists of that time were no more haunted by such "far-reaching projects" than were those of the Mexican leaders who framed the colonization laws.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and, as Mexican citizens, they stood ready to defend those rights. These were not the men who led the revolution in Texas. When the inexorable logic of history hurried forward that event, the great majority of these men stood for a peaceable settlement of difficulties, if possible, and they were among the last reluctantly to consent to a complete severance of the political ties that bound them to Mexico. There was no pretense about these sentiments of Austin: they were his real opinions, which were expressed in his addresses to the political chief as well as in his private correspondence with friends. There are threats in the letter quoted, but they were not born of a revolutionary spirit or prompted by the slave-owners of the Southern states of the American Union. They proceeded from a firm conviction that on his side were right and the constitution. There can be but little doubt that Austin looked forward to some kind of resistance to the execution of the decree, in case memorials and representations proved of no avail; but certainly there is no ground for the opinion that such resistance contemplated the dismemberment of the Republic. The central government was so weak at this time that every politician in Mexico knew that it could be resisted with very little danger of armed collision.[1]

That the views of Austin carried weight with them, even when addressed to the non-slave-holding Mexicans, is demonstrated by the attitude of the political chief of Bexar and the governor of the state, both of whom took up his cause and exerted themselves to secure a modification of the decree. Don Ramon Musquiz, the political chief of the department and a personal friend of Austin's, suspended the publication of the decree until the matter could be laid before the chief executive. His representation to the governor is a dignified statement of the case, and concerns itself almost entirely with the guaranties

[1] In dealing with this question our historians are perhaps too ready to project American ideas into Mexican politics. We of the United States almost necessarily connect *resistance to the government* with *dismemberment of the Republic.* It was not so in Mexico. It was not uncommon, particularly during the period under consideration, for states to decline to enforce the decrees of the central government.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

offered the colonists by the laws of the Republic. It emphasizes the fact that in all of the colonization laws solemn promises of security and protection of property were held out to intending immigrants.

Under these guarantees, so solemn, the foreigners, that now inhabit this department, entered it and established themselves; and if *security for their persons and property*, was so solemnly offered to them by the Mexican Nation; and if, what is still more, with the same formality they have been *invited and called* by the state, it seems very hard that they should be deprived, now that they are established, of a part of their property, by the supreme government, and perhaps of that part which most interests them for the purposes of agriculture, the raising of cattle, and other labors, to which they dedicate themselves, and which cannot be effectuated without the aid of the robust and almost indefatigable arms of that race of human species, that are called "*negroes*," and which by their misfortune, are held in slavery.

He reminds the governor that these slaves were brought to Texas as such and for the purposes of agriculture, that to emancipate them would be to destroy so much of the public wealth, that sufficient restrictions have already been thrown around the institution by state laws and that provision has been made for the gradual extinction of the evil. The political chief realized the difficulty of applying the abstract theory of liberty to conditions then existing in Texas; for he saw there was a conflict between the right of liberty and the right of property.

Philanthropy and the natural sentiments of humanity, cry out immediately, in favor of liberty, but the positive laws which regulate society array themselves in favor of property and declare it a sacred and inviolable right.

Once he mentioned the possibility of resistance on the part of the Texans:

I believe the fatal consequences which must result to the colonial establishments of this department by the publication and circulation of the aforementioned decree, will be very apparent to your excellency, whether they arise from the slaves who claim the benefit of it,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

or whether from the owners who require the contrary, and without the respect of any authority being sufficient to restrain them.[1]

This memorial, according to the Mexican custom, could not be sent by the political chief to the president, but had to reach the executive through the medium of the governor of the state. It was forwarded by the governor, together with a long remonstrance of his own. After calling attention to the representation of Musquiz, the governor proceeded to say that he should have asked the chief executive especially to exempt Texas from the operation of the decree, even if he had not been urged to do so by the authorities of that department. The decree, if carried into execution in Texas, he continued, would at once destroy those pleasing hopes of its future progress which had been aroused by the colonies then being planted there. Perhaps even the very existence of Coahuila and Texas as a separate state would be endangered by such a crushing blow to its future prospects. Coahuila, he added, looked hopefully to the rapidly increasing settlements in Texas soon to raise the state to a place of consideration and even of great promise in the Mexican confederation; and these settlements, owing to peculiarities of soil and climate, were in great measure dependent for their prosperity upon slave labor. If the planters should lose this labor by the decree of the government, he believed it certain that "this state must separate from itself, for many years, all ideas of its advancement."

The object of the decree, he went on to say, was for a thousand reasons commendable; but political difficulties frequently put themselves in the way of carrying into effect the mandates of philanthropy. Even the most civilized nations had not been able to set aside these political difficulties and still tolerated slavery.

In the United States of the North, in that classic country, cradle of liberty, and of practical philanthropy, so favorable to the independence and dignity of the rational species, we see that it has not been permitted to its wise legislators to gratify the most pleasing wishes of their hearts, on the subject of which I am speaking.

[1] The *Texas Gazette*, January 23, 1830.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Most of the remonstrance was thus occupied with economic and practical objections to the decree. The governor believed, too, that an enforcement of the decree might "draw upon the state some commotions," which would require violent and costly measures to suppress.

> Not by this do I wish inferred, that those settlers are of a turbulent and insubordinate character, for up to this time I have received nothing but proof to the contrary — but would refer to the condition of man, and the inclinations of which he is capable, when, from one day to another, he is about to be ruined, as would result to many of them, whose whole fortune consists in their slaves.

In view of these considerations the governor said that he indulged the hope that Texas would be exempted from the operation of the decree, "as one of the greatest benefits which the state under my charge can receive." [1]

These arguments were favorably received by the chief executive and the decree of December 2, 1829, was issued, which denied to the slaves in Texas the benefits of the general emancipation. The president was moved to this act, if we can trust the sincerity of his declaration in the decree, by a combination of the most prominent considerations presented in the remonstrances — namely, the practical inconvenience of carrying the decree into execution, the serious economic results and the possible resistance of the Texans. It would, of course, be difficult to say which of these considerations was the most weighty in the mind of the president. The economic difficulties had been most emphasized in the memorials which reached him, and it is not unlikely that these had at least as much weight with him as the fear of insurrection, particularly as the governor of Coahuila and Texas made such good report of the loyalty and orderly conduct of the Texans. Certainly it is going too far to ascribe the action of the president to his fear of conspiracy between Texas and the slave states of the United States.[2]

[1] The *Texas Gazette*, January 30, 1830.

[2] The decree was transmitted by the secretary of relations to the governor of the state, by the governor of the state to the political chief of Bexar and by the latter to the alcalde of San Felipe. The letters of transmittal are given in full in

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The representations of the chief of the department and of the governor of the state, together with the decree of the president issued in reply, appeared in the *Texas Gazette* of January 23 and January 30, 1830, then edited by R. M. Williamson. An editorial commends the action of the political officials, particularly as they and their Mexican friends were not personally interested in the matter. The editor believed that

> nothing but the conviction on their part of the vital importance of the colonies to the prosperity of the state, and their determination to protect them, could ever have called forth their united exertions on the subject.

It has been denied that a decree was ever regularly issued excepting Texas from the provisions of the law in question; indeed, some historians intimate that no such exception was

the *Texas Gazette*. I quote in full the *Gazette's* translation of that of the secretary to the governor, which contains the decree:

"Most Excellent Sir, his Excellency the President having been informed of the note of your Excellency, No. 126, of the 14th of last month, manifesting, conformably with the exposition of the Chief of Texas, which you forwarded, the serious inconveniences apprehended by the execution of the Decree of 15th September last, on the subject of the abolition of slavery in that Department, and the fatal results to be expected, prejudicial to the tranquillity and even to the political existence of the State; and having considered how necessary it is to protect, in an efficacious manner, the colonization of these immense lands of the Republic, has been pleased to accede to the solicitation of your Excellency and DECLARE THE DEPARTMENT OF TEXAS EXCEPTED [the capitals are probably the *Gazette's*] from the general disposition, comprehended in said Decree. Therefore his Excellency declares that no change must be made as respects the Slaves that legally exist in that part of your State governed by your Excellency, expecting from your patriotism and philanthropy, that you will cause the most vigorous vigilance to be used, in order that the general laws and those of the State which prohibits the introduction of new slaves and establishes the liberty of the progeny that are born in your territory, be complied with, so that by this means the time may not be long before the melancholy and repugnant spectacle, may disappear from the Mexican soil, which is presented to the eyes of philosophy, in the slavery of part of the human species, born with equal rights of liberty, with the rest, and which could only have been so abused and vilified, but by right of force, which is without dispute the most barbarous of any known.

"I have the honor to communicate to your Excellency in reply to your before mentioned communication, offering to you my considerations and respect. God and Liberty. Mexico, 2 Dec. 1829. To his Excellency the Governor of the State of Coahuila and Texas." — The *Texas Gazette*, January 30, 1830.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ever made in any manner.[1] Rivera states that the president, out of necessity, ordered General Teran, then in command of the eastern states, not to interfere with the slaves of the Texans. This order, he says, was given in a private letter[2] and not in the form of a decree addressed, as was customary, to the political authorities of the state. Lucas Alaman, the secretary of relations under the government that overthrew Guerrero, also says that the exception was made in a private letter to Teran.[3] An unfortunate mistranslation of Alaman's statement, together with that peculiar spirit which Professor Von Holst breathes into the history of early Texas, has led the latter far astray. He says:

> And the government was so powerless against them [the settlers of Texas] that an attempt was made to prevent another revolution by spreading the rumor that it was intended to except Texas.[4]

It was a matter of small consequence, so far as the validity of the decree is concerned, whether it was issued in the

[1] Schouler (History of the United States, IV, 250) says that Texas ignored the decree and makes no mention of the decree of exception. As to Von Holst, see below.

[2] "No abstante la ley sobre libertad absoluta de esclavos, dada por la administracion de Guerrero, siguió la esclavitud en Tejas, con escándolo de la moral y del buen nombre del gobierno, teniendo necesidad el presidente de ordenar al general Teran, por una carta particular, que dejara en aquel territorio lo que en los demas se consideraba immoral." — Rivera, Historia Antiqua y Moderna de Jalapa, III, 28.

[3] Iniciativa de ley proponiendo el gobierno las medidas que se debian tomar para la seguridad del Estado de Tejas, *etc.*: a report laid before Congress by Alaman, February 8, 1830, printed in Appendix to Filisola's Guerra de Tejas, II, 596.

[4] Von Holst, Constitutional and Political History of the United States, II, 556 and note. Alaman's language is as follows [all italics in this note are mine]: "Esta resistencia ha traido las cosas á tal punto, que se creia esta fuese la occasion del rompimiento, *y para evitarlo se dió por eceptuado aquel Departamento* del cumplimiento de esta disposicion, derogándola no por una providencia ostensible, sino, lo que es muy estraño, por medio de una carta particular escrita por el Sr. Guerrero al general Terán." (Iniciativa de ley propiendo, in Filisola's Guerra de Tejas, II, 596, 597.) The portion in italics was translated in Exec. Doc., 25th Congress, 2nd Session, Vol. XII, No. 351, p. 315, quoted by Von Holst, as follows: "And in order to avoid this [insurrection], *it was given out* that this department was excepted from the operation of the decree." A more nearly literal translation is: "And avoiding it [insurrection] *was accomplished* [or simply *it was avoided*] by excepting that department from the operation of the decree."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

customary manner or as private instructions to Teran; even Alaman admits, in the extract quoted by Professor Von Holst,[1] as well as in another portion of the same document, that the exception was actually made by the government. No doubt the decree was sent to Teran as part of his instructions, and it is possible that it was never published in the Mexican capital. As Alaman was a bitter enemy of Guerrero's and a supporter of the opposition to his government, he was not in a position to have personal knowledge of the acts of that administration. The decree is not found in the Dublan y Lozano collection of laws. Its publication in the *Texas Gazette*, however, with the letters of transmittal from the secretary of relations to the governor of the state, from the governor to the chief of department and from the latter to the alcalde of San Felipe, leaves no room for doubting that it was received through the usual channels by the government of Coahuila and Texas.

Would Texas have resisted the execution of the decree, if the exception had not been made? The people earnestly believed that their rights had been wantonly invaded; and there is an undertone throughout Austin's letter to Durst, quoted above, which sounds very determined. Guerrero's administration was weak and vacillating, and marked throughout by more or less confusion and disorder. The extraordinary powers, in virtue of which both the decree of emancipation and the exception to it were issued, were regarded with great jealousy by the states, and aspiring leaders lost no opportunity to widen the breach between the executive and the nation. The government lost the confidence and the support of the people; and, in consequence, its authority was soon held in contempt by the states. It was no uncommon occurrence for the state governments to decline to enforce the decrees of the executive: at least one law was defied by every state in the Republic.[2] It is not at all improbable, then, that the Texans would, on this occasion, have taken advantage of the weakness of the central government, and would have profited by the example of the other states in

[1] In the Spanish original, not in the translation.

[2] Bancroft, History of Mexico, V, 81.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

defying objectionable laws ; but such action would have had no greater significance in the matter of negro slavery, and would have had no more connection with the United States, than could be attached to the refusal of the government of Coahuila and Texas to enforce Guerrero's decree regarding taxation. In spite of this incident, the people of Texas were probably the most submissive and orderly body in all Mexico during this administration.

The emancipation decree of 1829 was not generally obeyed elsewhere in Mexico. A new decree freeing the slaves was published on April 5, 1837, in which revolutionary Texas was by express mention excluded from the benefits of the compensation that was promised to all other sections.[1] Such a decree and such an exception would obviously have been useless, if the negroes of all other sections had been living in the enjoyment of their liberty since 1829.

In the meantime hostility to the United States was growing apace. The Mexican statesmen were learning to believe that their sister Republic was not overscrupulous as to means when once it had determined to plant its flag in the territory of a neighbor. Not by armies, battles and invasions does the United States extend its territory, says Bustamante's newspaper,[2] but it begins by advancing absurd claims founded on facts which no historian admits ; and then follow constant reiteration of these claims, the intrusion of the American pioneer, negotiation and, finally, occupation. The far-seeing were, indeed, already beginning to fear that the United States was nourishing unhallowed schemes for the acquisition of Texas. The various offers made by the government for the purchase of all or any part of the coveted territory probably served to strengthen such fears in some and to arouse them in others.

With this dread of the power of the United States, there were growing up also fears as to the loyalty of Texas. It was known to every Mexican that the ties which bound the colonists to their kinsmen in the neighboring Republic were of the

[1] Dublan y Lozano, Legislacion Mexicana, III, 352.
[2] *Voz de la Patria*, February 8, 1830.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

strongest kind; but Alaman declares that before General Teran was sent to Texas in 1828 it was not known at the federal capital that the Texans had been persistently evading the laws as to religion and slavery.[1] We are not here concerned with the history of religion in Texas, and we have already seen how the evasion of the slavery law was legalized. Alaman complained bitterly that the state government had neglected to report these facts.[2] Probably the interested silence of the Coahuila officials only added support to the unfavorable attitude which the Mexican politicians were beginning to assume towards Texas.

Teran also found that the colonization laws were not being strictly enforced in Texas in other respects; along the border whole settlements had been formed without any authorization whatever. These "squatters," who had nothing to lose in civil dissension, were the class really dangerous to Mexico. It was men of this character in the Ayish settlement who made the first threats of resistance to Guerrero's emancipation decree.[3] Henceforward this class, to which the name "agitators" was applied by Austin and his party, grew steadily and became more and more threatening in its attitude towards Mexico. This was the class that constituted the backbone of the revolutionary movement.

No one in all Mexico was more thoroughly alive to the dangers ahead than Lucas Alaman, Bustamante's secretary of relations. He believed that dismemberment could be averted only by closing the gates against Americans; and on his recommendation the celebrated decree of April 6, 1830, was issued, which prohibited the further immigration of settlers from the United States, except under certain specified conditions.[4] We are concerned here with that decree only in so far as it dealt with the slavery question. Alaman took the view that the slaves in the colonies had been legally freed the

[1] Iniciativa de ley proponiendo, in Filisola's Guerra de Tejas, II, 607.
[2] *Ibid.*, II, 597.
[3] *Ibid.*, II, 599, 600.
[4] Dublan y Lozano, Legislacion Mexicana, II, 238–240.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

moment they entered Mexico, in virtue of the decree of July 13, 1824;[1] but as that decree was not enforced in Texas, the slave interest had developed freely to an alarming extent. He believed that the state of affairs in 1830 was such that an attempt to emancipate the negroes would provoke insurrection "and the loss of Texas would be infallible."[2] Consequently he recommended, and it was decreed, that slaves already in Texas should remain slaves, but that in future the laws as to this matter should be strictly executed.[3] In the meantime immigrants continued to bring their slaves into the country as indented servants, as was allowed and expressly provided for by state law; and a rapid succession of events hurried forward the inevitable conflict between Mexican and American.

No further action in regard to slavery was taken by either state or federal government until the Revolution of 1835–36. No mention was made of it in the Texas Declaration of Independence. The constitution of March 17, 1836, took the matter under consideration, and by its sweeping provisions finally determined the destiny of the negro in Texas. Section nine of the "general provisions" of that constitution declared that all negroes still in bondage, who had been held in slavery prior to the removal of their masters to Texas, should remain in that state, provided they were the *bona fide* property of the persons holding them. Congress was prohibited from passing laws forbidding immigrants to bring their slaves into the Republic; the power to emancipate was withheld from Congress; slaveholders were even denied the privilege of freeing

[1] The decree had not been so interpreted by the authorities in Coahuila and Texas. See POLITICAL SCIENCE QUARTERLY, September, 1898, pp. 398–401, 408, 409.

[2] "En el hecho de pisar el territorio de la República debieron ser manumitidos en virtud de la ley de 13 de Julio de 1824; pero no habiéndose esto verificado, el ententar hacerlo ahora seria escitar una sedicion entre los colonos, y la pérdida de Tejas seria infalible."—Iniciativa de ley proponiendo, *etc.*, printed in Appendix to Filisola's Guerra de Tejas, II, 607.

[3] "No se hará variacion respecto de las colonias ya establecidas, ni respecto de los esclavos que halla en ellas; pero el gobierno general, ó el particular de cada Estado, cuidarán bajo su más estrecha responsibilidad, del cumplimiento de las leyes de colonizacion, y de que no se introduzcan de nuevo esclavos."—Art. 10 of decree of April 6, 1830, Dublan y Lozano, Legislacion Mexicana, II, 239.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

their slaves (except with the consent of Congress), unless they sent the freemen thus created beyond the boundaries of the Republic; free negroes were not allowed residence in the country without the consent of Congress. Finally, the importation or admission of negroes into the Republic, except from the United States, was declared piracy and forever prohibited.

So ends the first chapter of the history of this institution in Texas. It was settled beyond controversy, by the constitution of 1836, that Texas should remain open to slavery.

There is little evidence of the existence in Texas of any form of the slave trade during the period covered by this paper. No complaint was made by Almonte of the violation of the law of July 13, 1824, and none was mentioned by Alaman as having been made by Teran. Austin's private papers, so far as I know, reveal but one instance. On the occasion of his settlement with the heirs of Joseph H. Hawkins, his partner in the first colony, Austin presented a statement to their agent, in which he expressly disclaimed all responsibility for the loss of "a vast sum in the negro speculation of which John Botts had the management," and definitely asserted that it "had nothing to do with the colony."[1] It seems that Botts had brought thirty or forty slaves to Texas in 1822 or 1823, at least some of whom were the property of Hawkins, and after disposing of them had declined to render an account to the heirs.[2] These are the only references that I have seen to any kind of speculation or trade in negroes prior to 1830.

The slaves brought into Texas seem to have been pretty evenly distributed among the settlers. There were many colonists, of course, who had none; but the majority of them possessed at least a few. Some even possessed a large number, and came to Texas with the intention of opening large plantations such as those in the Mississippi bottom. Col. Jared E. Groce received one of the largest grants of land made by

[1] Statement presented to . . . Martin, relative to the settlement of the business between S. F. Austin and the late J. H. Hawkins, September 14, 1832. — Austin Papers, A 30.

[2] Nathaniel Cox, New Orleans, to Austin, October 20, 1836. — Austin Papers, A 30.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Austin, — more than forty thousand acres, — because he owned "near one hundred slaves and may be useful, . . . on account of the property he has brought with him."[1] He seems to have lived in true baronial style, and on at least one occasion he joined Austin in an Indian campaign at the head of an armed and mounted retinue of some thirty of his negroes.[2] This, however, was an exceptional case. The number held by most of the families was much smaller, varying from two or three to perhaps fifteen or twenty. Josiah H. Bell, who managed the affairs of the colony during Austin's first trip to Mexico, brought only three negroes into the country.[3] John A. Williams had "a few," six of whom were fit for field hands.[4] Henry and Micajah Munson each owned seventeen;[5] Wyley Martin, three;[6] M. Brenaugh, twelve.[7]

These settlers all came to Texas before 1825. Those who came later brought with them about the same number of slaves to the family as those who came prior to the agitation of the subject. A group of fourteen families who applied for land in 1832 may be taken as representative. Six owned no slaves at all; four of these, however, were evidently younger branches of other families mentioned in the same list. The remaining eight brought with them seventy-eight negroes, three being the smallest number held by any one family and seventeen the largest.[8]

The total number of slaves in Texas in 1829 was stated by Governor Viesca, in his remonstrance against Guerrero's emancipation decree, at something more than a thousand. It is not positively known whether this estimate included all the negroes in Texas or only those that were brought into the country *as*

[1] Register of Land Titles, General Land Office, Austin, Texas, Translation, I, 264, 265.

[2] Recollections of Gibson Kuykendall, Bryan Collection, Q 2.

[3] Permit to settle in the colony from Austin to Bell, October 6, 1821. — Austin Papers, A 14.

[4] Williams to Austin, September 8, 1824. — *Ibid.*, A 32.

[5] Williams to Austin, January 29, 1825. — *Ibid.*

[6] Martin to Austin, July 31, 1824. — *Ibid.*

[7] Brenaugh to Austin, March 19, 1825. — *Ibid.*

[8] *Ibid.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

slaves prior to September, 1827; since those who came later were technically known as indented servants. According to a report made in May, 1829, there were ninety-nine slaves in Nacogdoches,[1] where the white population was 666;[2] there were very few in Bexar and Goliad. By far the largest number belonged to the planters of Austin's colony, where by 1831 the population had grown to 5665.[3] Juan Almonte, who was sent to Texas in 1834 as special agent by the Mexican government, reported that in a total population of 9000 in Austin's colony there were 1000 negroes who had been introduced "under certain conditions guaranteed by the state government."[4] In the department of Nacogdoches he found 9000 inhabitants, including about 1000 negroes brought in under "private contracts."[5] Francis Moore, nearly ten years later, thus contrasts the slave population of Texas with that of the United States:

> If he [a visitor from the United States] were from the non-slaveholding states, he would discover a few slaves, and if he were from a slaveholding state he would be surprised to find the proportion of slaves so small.[6]

Stephen F. Austin, who was the guiding spirit in the planting of the colonies in Texas, was not an advocate of slavery. He was the largest landholder in Texas and, had he wished, he could have opened plantation after plantation in the fertile bottoms of the Texas rivers; but he declined to take advantage of the opportunity and never owned more than two slaves at any time after entering Texas.[7] From this the conclusion is

[1] Archives, Texas State Library, No. 328.

[2] *Ibid.*, No. 326.

[3] *Ibid.*, No. 335.

[4] Almonte, Noticia estadistica sobre Tejas, printed in part in Appendix to Filisola's Guerra de Tejas, II, 553.

[5] *Ibid.*, p. 560.

[6] Moore, Description of Texas, p. 27.

[7] Austin wrote to his sister, December 12, 1825 (Austin Papers, D 86), that he and his brother owned no slaves. In the letter to Durst, quoted above, he said that he was the owner of one. "Personal Recollections of Stephen F. Austin" (the *Texas Magazine*, September, 1897) state that in 1831 he owned two and give their names.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

not necessarily to be drawn that he refused to purchase negroes, on account of moral objections to holding them ; but the fact may serve to emphasize, at least in a negative way, the sincerity of his expressed ideas on the subject.

So long as the existence of the colony was problematical, he made every effort to have slavery at least temporarily legalized; he fully understood that his colonists must come from the slaveholding portion of the United States ; he found that the soil, climate and products of the region which he intended settling were such that negro labor was almost necessary to successful cultivation; and he believed that he could induce a better class of immigrants to come to the colony if slavery was permitted. He held the success of this enterprise first in mind; but he thought that slavery could be so restricted by legislation that it would be comparatively harmless and that it could ultimately be exterminated. In consequence of these views we find him, on all occasions when the federal or national government took the matter under consideration, favoring the admission of slaves. After the colony had been established on a firm basis, Austin thought that a sufficient number of slaves had been brought in ; and so, from 1830, we find him in opposition to the further advance of the institution. His opposition, however, came too late ; a new and more radical element was entering Texas and hurrying it forward to revolution.

During and after 1830, Austin, on many occasions — public and private — made known his views on this subject ; but for the purposes of this paper a few instances will suffice. In a long letter, dated June 16, 1830, to Richard Ellis, George Sutherland, Anthony Winston, R. R. Royall, and others, intending immigrants from Alabama, he stated his views, as they have been given in substance above ; and continuing, he said :

> The reasons for a partial toleration of this evil have now ceased ; and the true prosperity and happiness of Texas require that an everlasting bar should be interposed to the further introduction of slaves.

In another part of the same letter he said :

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

I am of the opinion that Texas will never become a slave state or country. I will be candid with you on this point, and say I hope it never may.[1]

In 1831 he expressed himself as follows :

After the slaves are dead who were introduced before the constitution was published, Texas will be entirely clear of that worst of reproaches against a free and enlightened people.[2]

There is evidence that many of the citizens of Texas were in accord with Austin in these opinions. It was quite possible for a planter in Texas to believe that the further introduction of slaves should be carefully guarded or wholly forbidden, provided his own property was left undisturbed. Almonte reported in 1834 that, while it was true that slaves were brought into the country in evasion of the law, the practice was condemned by the "honorable people."[3] If this statement could be accepted unreservedly, it would indicate that there had been a change in popular sentiment since Guerrero's emancipation decree was issued. The fact probably is that in this instance Almonte's report reflected the views of a few conservative leaders, like Austin, and not those of the mass of the "honorable people."

The attitude of S. Rhoads Fisher, who came from Pennsylvania to Texas, may be accepted as fairly representative of those planters who had entered the country prior to 1830; while those who came later brought with them more radical views. In a letter to Austin, under date of August 14, 1830, Fisher thus expressed himself :

Like yourself I detest slavery, but conceive the general views I have there [in an article written by Fisher for the *Texas Gazette*] taken are correct, and am firmly persuaded that the free admission of Slaves into the State of Texas, authorized by an act of our legislature, would

[1] Austin to Richard Ellis, George Sutherland, Anthony Winston, R. R. Royall, and others, June 16, 1830. — Austin Papers, D 94.

[2] Emigration to Texas from Europe (manuscript pamphlet), p. 15. — *Ibid.*, A 11.

[3] Noticia Estadistica sobre Tejas, printed in part in Appendix to Filisola's Guerra de Tejas, II, 553.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tend more to the rapid introduction of respectable emigrants than any other course which could be pursued. Our rice and sugar lands require that kind of labour, — and let the preamble to the bill set forth the advantages which would accrue to the State from a *temporary* introduction of Slaves, and therefore limit the period of admission to 5 years, or to any other number that you may deem expedient.[1]

In conclusion, the principal facts as to the history of slavery in Texas are as follows. Spanish law and the approval by the governor of Texas in 1821 of Austin's scheme for the distribution of lands opened the way for the introduction of slaves. In 1823 Austin's efforts in Mexico prevented Iturbide's Junta from abolishing slavery and secured from that body permission for his colonists to bring in their slaves, though the children born of these slaves in Texas were to be free at fourteen. This law was abrogated by the succeeding government, but Austin's first colony was settled under it. The federal law of July 13, 1824, prohibited the slave trade, and may possibly be construed to forbid the further introduction of slaves into Texas, though the authorities in Coahuila and Texas did not so construe it. The *Acta Constitutiva* and the federal constitution of 1824 were silent on the subject. The constituent Congress of Coahuila and Texas, under the leadership of Carrillo, was bitterly hostile to slavery; but the exertions of Bastrop and the Austins modified that hostility, and the state constitution, adopted by Congress in 1827, allowed immigrants to bring in their slaves for six months after the promulgation of the document. According to this instrument the children of slaves were free at birth. In September of the same year, Congress enacted a law to carry out the provisions of the constitution, and for the first time (if we leave out of consideration the ambiguous decree of July 13, 1824) it became illegal for settlers removing to Texas to bring their slaves with them. In 1828 the government of Coahuila and Texas provided means for evading the law by legalizing contracts made in a foreign country, and the American settlers continued to come with their slaves, now called indented servants. Attempts by

[1] Fisher to Austin, August 14, 1830. — Austin Papers, E 202.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the United States to purchase Texas, together with Teran's disclosures in 1828, then aroused the opposition of a few leaders. Tornel, after failing to get an emancipation decree through Congress, persuaded Guerrero to promulgate it from the executive chair in 1829. Discontent was thus aroused in Texas and sedition threatened; and on the recommendation of Governor Viesca, supported by the political chief of Bexar and the ayuntamientos of Texas, the president, moved by economic considerations as well as by fear of revolt, excepted Texas from the operation of the decree. The law of April 6, 1830, made no change in the status of slaves then in the country. The Texas Declaration of Independence did not mention the matter. The constitution of 1836 finally settled the question by stringent provisions which put slavery beyond the control of Congress.

LESTER G. BUGBEE.

UNIVERSITY OF TEXAS.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

LAND-TENURE IN ANCIENT INDIA.

SINCE the days of Sir Henry Maine the glory of the Hindu village-community has well-nigh departed. Ten years ago it was still taught that the "primitive Aryan," an individual with whom we are less familiar now than formerly, held only a limited right of possession in his native soil. In the idyllic picture of the village-community drawn for us in 1887 by a learned German scholar,[1] the village-elder sat "under a great tree" (the species is not certain) before the collected village, and administered simple justice, dividing among his kindred shares of land and water, while with the aid of assistant assessors he imposed equitable taxes. He was at once the grandparent, the king and the co-heir of the village in what had been left to them all by preceding generations.

Communal ownership of land was at that time believed by most scholars to have been an Aryan institution, common to the primitive German and Hindu alike. It was, therefore, with the feeling of being very heretical that I ventured, on the basis of a merely literary acquaintance with the social conditions of ancient India, to state in 1888 that "practically the ownership of land is vested in each hereditary occupant; his right is secured by title;"[2] and to say that there was need of a fresh investigation of Indian village-communities and Hindu land-tenure.[3] At that time I did not know that Mr. Baden-Powell's wide researches into present conditions had concentrated themselves upon this very problem and were leading him to the same general conclusion, which he has now sought to establish more firmly by recasting the material. In *The Indian Village Community* the perfected theories of the author of *Land Systems* are explained at length. These are the more valuable as they have been propounded solely from the point of view of the

[1] Leopold von Schroeder, Indiens Literatur und Cultur, p. 414.
[2] *Journal of the American Oriental Society*, vol. xiii, p. 88.
[3] *Ibid.*, p. 57.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

practical observer of things as they are, and because Mr. Baden-Powell not only disdains literary evidence, but also is fairly ignorant of it; while I, at the time I wrote, knew nothing of present conditions. That from two essentially different sources we have drawn substantially the same result is surely an argument in favor of its probable correctness.

But as I cannot quite agree with all that is taught by the author of *The Indian Village Community*, and as my divergent views are in part not theoretical but historical, it may not be inopportune to inquire whether a certain familiarity with the literature is not of some use to the historian. We may indeed claim that the ritualistic works called Brâhmanas are not trustworthy; but it is a different matter to say that such and such statements are not found in the literature because we do not know where to find them. To combat irrefutable facts by denying their existence is not to win the case.

Happily, however, these strictures apply only to a detail or two in Mr. Baden-Powell's comprehensive work, albeit he has based on these details a tottering superstructure of unnecessary theory. But it is not for the pleasure of controversy that I think the whole question deserves to be restated from the literary and historical side. In the article already alluded to, the theory of land-tenure was merely an incident; and all that I then had to say on the subject was contained in the suggestion that the theory which obtained as I wrote would not square with the facts. Sir Henry Maine died in the same year that my article was published; and, strangely enough, no follower of his ever undertook to see whether his views were corroborated by literary evidence. Still more remarkable is the fact that no Sanskrit scholar has ever sought to trace through the literature the recorded growth of Hindu institutions. But the literature is so vast that few have compassed it or possess even a superficial knowledge of what lies apart from their special field of research. The outline here presented is a first attempt to sketch the growth and change of land-tenure as these are shown in the literary monuments of Aryan India, from the earliest Vedic period to about 500 A.D. I shall be as uncon-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

troversial as possible, as I do not wish to convey the impression that I regard Mr. Baden-Powell's monograph as entirely erroneous. On the contrary, to my thinking, the general proposition that the Aryans of say 1000 B.C. were not grouped in village-communities (using this word in its strict sense) is irrefragable. What strictures I have allowed myself concern subsidiary but unavoidable questions.

I would say one word more before beginning my historical sketch. Writers on economic conditions in India are still prone to cite from the "early law" of the Hindus; and unfortunately, to many who know other things well but Sanskrit only by reputation, "early law" is synonymous with the law book of Manu. Now, Manu may be cited with discretion but not at haphazard as an authority on early law; for he stands to early law much in the relative position of Justinian, where the old may be found but where not all that is found is old. Before Manu there are a number of earlier law-writers known as authors of law-manuals, Sûtras (700–300 B.C.). Behind these again lie all the legal provisions of the (informal) Brâhmana age, and back of these again the Vedic Hymns. It will readily be seen, therefore, that Manu is not synonymous with primitive or even very early Aryan.

No very definite statements in regard to land-tenure can be gathered from the earliest literature. The Vedic Hymns, the oldest literary monument, show that different tribes at different periods are involved in any data that may be collected. At one time a poet speaks of his people as advancing "from a far land," searching for "pasturage and water"; at another, a singer is interested mainly in agriculture, and prays for rain and a good harvest. The people were in part nomadic: all together they sought fresh lands; "give us wide pastures" is their cry. But only an occasional prayer for meadow-land to be bestowed on one worshiper would lead us to lay stress on this poetic phraseology. The contrast is there — on the one hand, between the sole petitioner and the cry of land for all; on the other, between the grazing and agricultural population — but only the latter antithesis is pronounced. Taken as a whole, the stage repre-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

sented is, if not wholly nomadic, at least generally that of a people devoted to cattle rather than to the plough. In the whole of the Rig-Veda there are less than a dozen references to ploughing, while those to grazing are innumerable. Landed property is gained by conquest, and the "winning of fields" or "conquest of fields" is recognized as the usual aim of battle — as much so as "the conquest of cattle." The booty of such conquests, as is expressly hinted, was distributed by shares. At a coronation the prayer is: "Grant him, the king, a share in village, horses and cattle." But the king distributes, as is said in another hymn: "From the height of sovereignty do thou, terrible one, give us a share in goods." Private ownership in land is plainly expressed, not only by the image of the gods measuring time with [their] staff "like a field" (which Mr. Baden-Powell translates incorrectly, through the medium of a German version, as "a man measures a field with a staff of reed"), but by other passages where ownership is really implied. Thus, a young woman prays that something may grow on her father's head and on [his] plough-land; and a gambler cries that a god has warned him to go and plough the plough-land for a living instead of playing with dice, which leads only to regret as he looks on the happy homes of others.

The "heads of families" casually mentioned as grouped around the "active lord of the host" may possibly imply joint families; but the evidence for this is certainly very vague. On the other hand, there is direct evidence, as I shall show below, that a joint family in the legal sense was not recognized; while the indication of separate ownership of fields apparent in the Rig-Veda is substantiated by a passage in the Atharva-Veda, where a man prays the god to bless "his men, his cattle, his horses, and his field." Separate houses are of course to be assumed, but they are also implicitly established. The kings give to their priests great gifts of thousands of cattle, not as part of a common possession but as their individual property to be driven off to their own home. But the great owner of property, the "wealth's wealth-lord and people's people-lord," as the Atharva-Veda calls him, is the king. This wealth he

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

wins "from foe and friend"; but there is nothing at this period to indicate indubitably in whom is vested the ownership of land. The people are taxed, and long before the close of the Vedic period the tax is obligatory.

The domestic priest of the king was the first, as far as the records show, to be the recipient of a gift of land from the king. In one of the earliest Brâhmanas, the first prose literature, the king is directed to give this priest "a field"; but we shall look in vain through the still earlier literature of the Hymns for any such donation. In the Vedic Hymns cattle, horses, slaves, clothes and jewels are given in profusion, but nowhere is there any mention of a gift of land. When thus given, however, in the second period, the land may not be alienated. Even if the king at another time should give all his land to another priest, that piece which he has formerly given to the first priest is not included in the later donation. The prototype of those extraordinary gifts (so frequently mentioned in later literature), whereby a king gives all his land to a priest, is found in the Brâhmanas. As Mr. Baden-Powell seems to think that all such stories are late, — and, in fact, he seems to know only of the latest, — it is well to remember that, so far as such stories affect the question of land-tenure, they are really a product, not of a late age, but of the Vedic period in its second stage. Such gifts in that age are, however, rare as compared with the succeeding period.

A general view of the intermediate age, represented by the later Vedas and the Brâhmanas, shows that, when a king with the help of an ally conquers a third king, he "goes shares" in the booty with his ally; that the country is governed by the sovereign through local officers; that the *grâmanî* or "leader of a host" of the earlier period has now become a "village headman"; and that the king bestows land for a place of sacrifice only when he has been "begged" for it by the priests. An interesting difference of terminology in the kingly title shows that the notion of "emperor" or supreme king over feudal chiefs is already current; "lordship and over-lordship" — or, more strictly, "mastery and over-lordship" — are now the king's; and he is called "the one owning all the land" as

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

a regular imperial title. On this point also I am compelled to differ from Mr. Baden-Powell, who thinks that the idea of land ownership vested in the crown is a late growth. On the coronation of the king, in distinction from the office implied in the earliest (Indo-Iranian) title of "protector of the people," it is expressly stated that the king has become "the protector of the priest and the devourer of the people." This is no isolated phrase; nor are the people, literally "the clans," other than his own. It is said again and again that the farmers are "the food of the nobility." In a characteristic passage of the Aitareya Brâhmana it is said that the peculiar function of a priest is to "take gifts," while the peculiar function of the Vaishya (peasant-farmer caste) is "to be devoured by priest and nobleman." Even in this early age (1000–800 B.C.) the only difference recognized between the slave and the farmer is that the latter may not be killed at pleasure, because he is of Aryan blood.

I submit that no peasant proprietor, openly described as fit only to be robbed, was likely to have a very secure hold of his landed property. The same text I have quoted says, indeed, that the nobleman's power has its roots in the earth, but this may be only a poetical phrase. As to the possibility that the peasant-farmer could defend himself against aggression on the part of a priest, a Vedic text had already settled the matter by saying that in any dispute between a priest and a layman the judge [the king] must always decide in favor of the priest. Another indication that the king's sovereignty extended over all save the priest is given by the circumstance that a priest's house is recognized as being "outside the realm." Thus there is a barbarous old ceremony (into the details of which it is not necessary to go) in which at a certain time a certain woman is "driven outside the realm." As realms grew larger, this became inconvenient, for the woman had to be brought back again; so the device was adopted of making her go into a priest's house, "for this lies outside of the king's *āshā* [power]" and so is out of the realm.

Another question arises at this point; and it is perhaps the one that Mr. Baden-Powell has answered most unsatisfactorily,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

when he claims that the Aryan Vaishya was an agriculturist only incidentally and chiefly by proxy, being really a trader. He bases this view on the fact that in Manu's (late) law book the Vaishya seems to be principally occupied with trade. In the course of his argument he is here led to make one or two statements of fact, the truth of which cannot be determined upon the slender evidence adduced, and which a closer acquaintance with Sanskrit literature would probably have modified.

The subject is really of prime importance, owing to the use to which Mr. Baden-Powell puts his results. He draws from it the conclusion "that the upper classes of Aryan origin had little feeling for agriculture, and that India does not owe to them either the introduction of settled cultivation or (directly) any particular policy or principle of land ownership."[1] Mr. Baden-Powell thinks that agriculture was performed only by the humblest classes of Aryans, scarcely differentiated from the original inhabitants, and is much surprised that he cannot find, in accordance with his theory, any mention of the Shûdra (slave) as an agriculturist.

This is rather a startling statement, in view of the fact that, as I have already mentioned, agricultural labor is alluded to in the very earliest Aryan literature. In the Brâhmana literature also, although one does not expect to find many allusions to agriculture in books devoted to the exposition of a sacrificial liturgy, ploughing is very often mentioned and the processes of the year's work in the plough-land are all described. Then turning to the Sûtras, or earliest manuals of law, some of them much older than Manu, we find, not only constant allusion to agriculture, but plain evidence of the fact that Vaishyas were particularly agriculturists, and that members of the warrior caste and of the priest caste were very apt to adopt the same occupation. It is surely, therefore, a grave slip to say, as does Mr. Baden-Powell: "Whatever be the true date of the *Laws of Manu*, we have no earlier literary mention of agriculture, after the Vedic Hymns."[2] As a matter of fact, we can trace almost step by step through the Sûtras the gradual change

[1] The Indian Village Community, p. 192. [2] *Ibid.*, p. 190.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

from cowboy and agriculturist to trader in the case of the Vaishya. Long before the time of Manu's law book, had arisen the famous *ahimsā* doctrine of non-injury to living creatures; and the objection to agriculture on the part of the priest is based expressly on this ground in the law books. But, as to-day and in the last century in Râjputâna, so in ancient times recourse to agriculture was the first thought on the part of the upper castes, and agriculture was the usual occupation of the third estate. It is true that the upper castes had no "feeling" for agriculture, but noblemen and priests, as a general thing, have feeling neither for agriculture nor for trade.[1] In India the Vaishya was first a tender of cattle; then from the Vedic period onwards an agriculturist or cattle-man; and, lastly, by preference a trader. But, on the other hand, traders existed in the Vedic age, so that the very gradual change of occupation of the caste as a whole is the more remarkable, if Mr. Baden-Powell is correct. There is, again, another factor ignored in Mr. Baden-Powell's work. "Vaishya" was the old inherited caste name and could not be dispensed with. It had to cover various new livelihoods in the law books. But in the epic, which comes next in sequence, trader and Vaishya are sundered outright, grouped as two classes; and here Vaishya, in contradistinction to trader, means agriculturist. The epic, moreover, in numerous passages intimates that, when a Vaishya is spoken of, it is an agriculturist who is intended. Thus, in the words of the Goddess of Bliss: "I dwell in the home of the Vaishya, the one devoted to agriculture"; and again: "This is the expiation of a Vaishya, to give part of his crops to a priest." The same work contains a list of priests who lead irregular lives: "Some [priests] practice agriculture and tend cattle; some rely on begging," *etc.* Sometimes the word connotes simply a cowherd; sometimes it includes the trader; but it never indicates the trader alone. But not to quote more, though it would be

[1] Kings are, however, particularly enjoined to see to the interests of the agriculturists. In the epic the king is expected to make reservoirs and distribute grain to needy farmers, particularly the former, as in the sage's anxious inquiry: "I trust, my lord king, that agriculture does not depend on the gods in your kingdom" (that is, I trust you have irrigated the country).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

easy, I will conclude this paragraph by saying that the town Vaishyas were usually guild men, and became naturally much more important economically than their stupider brothers who stayed on the farm.[1] To deduce from such evidence the sweeping conclusion that India owes agriculture and every settled principle of land-tenure to the Dravidians seems to be a good example of the result of neglecting literary sources. There is in reality no evidence whatever to show that the Aryans learned agriculture from the Dravidians.

The appointment of officers over various parts of the kingdom as subalterns very likely dates back to the Vedic period; and as Mr. Baden-Powell says of the officers in Manu's law book: "These were in all probability 'over-lords' simply, who drew revenues from the landed proprietors." In one of the Upanishads it is said in a simile: [The vital breath commands the other breaths] "just as a *samrāj* or universal king commissions his officers, saying: Be thou over these villages or those villages." But in many cases these villages do not seem to have had much tenacity as regards land; nor do they appear to have been especially corporate. When, as is related in a Buddhist text, one village is annoyed by dacoits, it is regarded as the most natural thing in the world that the village should be moved — that it should even divide into two bodies, one part going to one place and the other to another.

Now this instability of the village is characteristic of the eastern part of India. From the east comes the account of the division first mentioned; and similarly it is in the later epic, which is probably an eastern addition to the western poem, that the king is warned continually to be kind to the agriculturists, as they are liable, if displeased, to leave their villages at any time and to seek homes elsewhere, even in the realm of his enemy. This, too, is corroborated by the proverb-wisdom of the period: "A wife and a home — these are secondary matters; one can find them everywhere."

[1] But even trading town Vaishyas kept up agricultural pursuits, as is shown in many Buddhistic stories. See also the writer's articles on Ancient and Modern Hindu Guilds, *Yale Review*, May and August, 1898.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The gift of whole villages on the part of a king is a noteworthy feature of early Buddhist literature (*c.* 300 B.C.), as it is of the epic. It is foreshadowed, as we have seen, in the tales of the Brâhmanas. By what tenure these lands were held is not so certain as Mr. Baden-Powell thinks. But before describing the terms of these grants I must touch on another topic.

The joint family, which is the basis of the village-community, is the ideal of the later age, but not an ideal which is favored by the jurists. In the later law it is held to be more meritorious not to keep the family united, the principle being that of the so-called "increase of religion." That is to say: the more householders, the more sacrifices; the more sacrifices, the more spiritual merit (and the more gifts to priests). But the joint family stands in a poetic ideal light in the eyes of the epic poets. This tends to show on the one hand that it was old, and on the other that it was no longer customary. An example or two will illustrate this. An elder brother, who has all to gain and nothing to lose by keeping up the joint family, reproves his younger brother, who demands partition of the family estate: "Many through folly desire partition, but such divided heirs are weakened before their foes." Again, in plaintive retrospect of the good old days it is said: "In that age sons did not divide with their father." The strange thing about this is that, according to all the legends and traditions of antiquity, the joint family is unknown: the divided family is the rule. There is, to my knowledge, not a single instance in the mythical accounts of the past, where a father is represented as leaving his property to the family in general or as possessing it in common with them. The historical or legendary evidence, on the contrary, all points the other way.

If, for instance, we turn back to the oldest period of which we have any knowledge, we find in the Rig-Veda a distinct allusion to the fact that, when the father grew old and feeble, he was ousted from his property and his sons divided it among themselves. In the Brâhmanas, again, there are two mythical accounts of Father Manu (not as the lawgiver here, but as the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Adam of the race) and of the division of his inheritance. These differ only in details. One of them, either really the older or at least contained in an older work, describes the fact thus: "Manu divided his property for his sons; one of them, living elsewhere as a student, he excluded from a share." The other account says: "The brothers excluded from a share one of Manu's sons." In both accounts the property is divided during the father's life. The position of the one son who assumes his father's place is described in the later literature of the Upanishads, where it is said that when a father, thinking he is about to die, bestows everything on his son and that son accepts it, then the father, if he recovers, must live under the son's authority or "wander about, a beggar." But this is a later case of only one son, and affects solely the authority of the father when he has disposed of it; whereas the earlier tale recognizes each son as special owner of a special share. So, too, in the Yajur Veda is found another indication to the same effect, when it is said: "For this reason they fit out the eldest son with [an extra share of] property," as the sentence must be interpreted according to the context and according to the oldest commentator, who is himself a jurist.[1]

Again, in mythology we find constant reference in the Brâhmana period to the "division of inheritance" of the Father-God, whose children, the gods and the devils, "both being children of the Father-God," fight for their respective shares and "enter into their inheritance" by dividing it. In terms of real life this would show that the divided family was the ordinary family through the Brâhmana period. So, when a man has no son, he divides his property between his two wives, according to another well-known story of the same period.

But the marriage hymn of the Rig-Veda indicates that the man takes his bride home and expects her to be mistress of the household, which expressly includes her father-in-law and brothers-in-law. Now this hymn represents, in all probability, a period much older than the mass of Vedic Hymns; and it

[1] Âpastamba's Law Book, ii, 6, 14, 12. The accounts of partition are from the Black Yajur Veda and Aitareya Brâhmana.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

would really be consonant with all the facts in the case, if we saw in this unique passage (for "hymns of concord" do not prove anything) a reference to the joint family, though no longer in the "patriarchal" stage. In what way, however, can this be harmonized with the apparently contradictory evidence already adduced? Clearly by the otherwise not improbable assumption that the joint family was already on the wane in the earliest (literary) period. It is for this reason, as it seems to me, that the two forms go theoretically hand in hand at a much later date, as in the law book of Manu and the epic. In the latter, for instance, the same paragraph gives directions for maintaining a family in either way after the father's death. Here the joint family is formally disapproved of, while theoretically it is allowed; but the only case where a really joint family is represented is that of the chief heroes. These, however, are ideal types; and even in their case the separate ownership of a younger brother is distinctly recognized. Thus, in order to give away property belonging to his junior, the head of the family asks the latter's permission; and when this is refused, the younger retains his possessions undisturbed.

When it is remembered, however, that the Aryans of the Punjâb are looked upon by the writers of this epic as outside the Brâhmanic pale, and that many customs lingered among the former which the more advanced Aryans of the "middle district" (around the present Delhi) had long since renounced, it is clear that another element than that of time may be involved. Mr. Baden-Powell seems to think that the Punjâb was as un-Aryan two or three thousand years ago as it is to-day. But the people of the time did not think so. The inhabitants of what is now the Delhi district revile in no measured terms the western Punjâb allies they unwillingly associate with, but it is not even suggested that they are not Aryans: it is merely said that their customs are strange, remote, not in keeping with the more eastern usage of the "middle land." It is therefore possible that the older joint family was retained among those Aryans who, instead of striking southeast with the descendants of the Vedic poets, lingered behind in the Punjâb.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The kind of property "divided" in the ancient tales I have referred to is never land but always flocks. Even the early law books are very reticent in regard to the kind of property to be divided. When partition is expressly spoken of, however, it is in terms of cattle. "Impartible property" is described at length, the list increasing with the lateness of the author. Thus Manu's list includes "a dress, a vehicle, ornaments, prepared food, water [that is, a well], females [slaves], religious property and a path [or pasture]"; while the earlier list of Gautama mentions only water, religious property, prepared food and females [slaves]. Only the late jurists of the fourth and fifth centuries of our era specify houses and lands as partible. But fields owned by individuals are mentioned, not only in the case of a man who clears a piece of jungle and is therefore admitted to be the possessor, but also in the laws concerning the establishment of disputed boundaries. It is therefore the more remarkable that in the laws of inheritance real estate is ignored. The later jurists are, in fact, as careful to give minute rules of inheritance in regard to house and land as are the early jurists to avoid express mention of such forms of inheritance.

The explanation of this odd state of affairs is to be found, I think, in a restriction of the sweeping generalization made by Mr. Baden-Powell, when he states that the early Aryans in India recognized only private ownership in land. Manu's law book itself conceals economic conditions tacitly recognized as existing in other localities, or as having once existed and being therefore legal. An instance of this may be found in the case of the boundary laws. Mr. Baden-Powell says, with a simplicity almost too forced, that "rules for settling boundaries are given"; and then he uses this presentation of the facts as an argument against the view that village holdings are known to Manu, and as a proof of exclusively "private ownership."[1] It is doubtless true that Manu recognizes boundaries of private estates; but it is quite as important to notice that he not only

[1] The Indian Village Community, p. 207. In the same author's Land Systems (vol. i, p. 227), the wording is "boundary of estates or holdings."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

recognizes boundaries of villages also, but devotes to the latter his chief care. In fact, the whole subject of boundaries in his law book opens with elaborate rules for the adjustment of boundaries between "disputing villages"; and it is only as an afterthought or appendix that he adds to these rules the subsidiary law in regard to "boundary lines of a field, spring, reservoir, garden or house." Previous to the curt statement that in such cases the boundary shall be established "by an appeal to the neighbors," comes a long description of the formalities to be observed "when a dispute has arisen between two villages." This description extends over seventeen verses and closes with the statement that "as the witnesses declare, so shall the boundary be between the two villages."

It is evident to any one familiar with the style of the Hindu law books that two arrangements are here put side by side: the first, lengthy, ornate, precise, in regard to the boundaries of villages; the second, an appended and apparently late statement in regard to fields. In the former case, according to the commentator's reasonable explanation, there are two advocates or special pleaders, each representing one of the two villages, but the whole village takes part in the proceedings. The rule of Vasistha, who quotes Manu and is not a very early writer,[1] speaks only of the second kind of boundary. Still more noteworthy is the absolute inversion of the order in the still later law book of Yâjnavalkya. Here the boundary rule is applied first to private fields and then to "gardens, villages and reservoirs." Virtually, the elder lawgiver says: "This is the law in regard to the disputed boundaries of villages," and then adds: "This law applies also to fields." The later jurist says: "This is the law in regard to fields," and then adds: "This law applies also to villages" — rather a significant alteration.

It is of course true that this passage does not prove com-

[1] The law book of Vasistha is a mixture of prose and verse, of old and new. Like the later writers, he prescribes, for instance, that a proof of ownership is a *lekhya* or "writing," and enjoins the use of documents in case of disputed ownership (xvi, 10, 14). The earliest Sûtra lawgiver, Gautama, has no rule at all in regard to boundaries, though he recognizes enclosed fields and private ownership in land.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

munal ownership in either village; but the inference from the prior description would not seem to be that the ownership spoken of is one of private fields; and it is certainly going a little too far to cite the passage as evidence of exclusively private property. The garlanded witnesses, marking out the lines in the presence of "all the inhabitants," would seem rather to point to the recognition of proprietary rights in those inhabitants as a body. Further, we hear of the much despised "priest of a whole village," who, like the "priest of a corporation," apparently officiates for a corporate body.

The habitat of the joint-family village seems to be in the agricultural districts of the Punjâb. It is therefore interesting to notice that the people who are spoken of in the early Brâhmana period as living "without kings" are inhabitants of the northwestern Punjâb. The epic, moreover, speaks of a people whose only name is "villagers" or "village-headman people." They are great warriors and "live on the banks of the Indus."[1] These points will perhaps be worth noticing in any future treatment of the subject. To my thinking, Manu, whose law book originated in what is now the southeastern Punjâb, stands between two geographical and historical extremes; and in his work, as in the early epic which came from the same district, there are traces of two forms of holdings and two forms of inheritance and family.[2]

It is a very early rule that in lieu of regular heirs all property goes to the crown. Does this mean that the right to it reverts to the crown? Such is the Hindu's own explanation. But Mr. Baden-Powell says that no ancient Hindu writer can be quoted for the idea that the state is considered superior owner of the soil, and asserts that the only authority for this idea is a modern digest of the last century.[3]

[1] People living "without kings" are frequently mentioned in the epic, and always as if they were well known though much despised.

[2] I may add that Mr. Baden-Powell's notion (in support of his theory) that Manu's law book comes from Oudh is utterly without a basis in fact. Manu praises only the Delhi district. The eastern districts he knows only as the home of impure castes.

[3] The Indian Village Community, p. 209.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Now Brihaspati, whose code was written about 400 A.D., says that the reason why the king becomes heir to property left without another heir [male issue, wife or brother] is that he is the "owner of all"; and Nārada, who wrote his code about the same time, says that real estate held for three generations cannot be estranged except by the king's will. Again, Brihaspati, who lived when the village owned by one man was customary, says in speaking of such a village: "Suppose land is taken from a village belonging to one man and transferred to another man either by [the action of] a river or by the king, [to which man does it belong?]. It belongs to him who gets it from the river or from the king." The only reason is that the king is the supreme owner of the land.

In the earlier period the question as to who owns the land is not discussed, but in every reference to the subject it is said, as if it were simply a matter of course, that (with a constant exception in the case of priestly possessions) the king is the owner of everything. He is not only the over-lord, but he is the over-lord as owner. Thus, as owner simply, he gets half of all treasure-trove; and that this is the true explanation is evident from the fact that, when the king gives a village to a priest, he gives him as owner the right to all the treasure-trove — that is, the king's ownership has passed to the finder, who is now the owner. In regard to the interpretation of the legal passage I do not stand alone. Professor Bühler, of Vienna, one of the foremost scholars in this line, declared long ago that he regards the rule just cited "as a distinct recognition of the principle that the ownership of all land is vested in the king." Mr. Baden-Powell has, if I may say so, let the "over-lord" theory run away with him, and seems to be blind to the fact that this word is also applied to those who are in no sense political over-lords, but are presented with villages to tax or sell at their own pleasure. The epic also has many passages showing that, while the priest claimed a divine right to possess everything in theory, he has abrogated this in practice, and in consequence everything belongs to the king to give. "Only a warrior [king] may give land to a priest," it is said; and, con-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

versely, it is said again: "Land may be taken possession of only by a king." "It is a Vedic utterance that the king is owner of the wealth of all save the priests," is another statement made alike by law and epic. Furthermore, the epic kings are perpetually admonished by the sages not to do wrong to the people; but though various sins against them are enumerated as possible, — such as oppressive *corvée*, over-taxation and the like, — it is not once hinted that a king should not rob his subjects of land. If the land were regarded as the peasant's own, we should surely meet somewhere in the vast epic literature and wide range of legal Shâstra some such note as we hear in the modern peasant's defiant cry that "the king owns the tax, but the peasant owns the land." It is not till the fourth or fifth century of our era that the king is admonished "not to upset the two fundaments of the peasant's life, his house and field."[1] As I have already observed, in the period just preceding this the inhabitants of the country are represented as easily moved to leave their homes and go elsewhere. They are, in fact, especially told to do so, if the soil or the king is "bad." "One should leave his king and native place if they are bad [poor]; and take that to be his country where he can earn a living," is an epic dictum.

Nor are the laws of this period regarding the rights of kings contradictory. The king is declared to be the "preserver and destroyer" of his people, who are still, as of old, to be "devoured" by taxes or otherwise, as the king sees fit. When he needs it, "the king may take all the possessions, small and great, of those who break the ten commandments [of morality]," and "any possessions of any one save a priest." The king further gives and gambles away fields, villages and whole districts at pleasure. Nor is such a gift of a village a presentation of the right to tax alone. The recorded copper-plate grants of the first centuries after Christ explicitly declare of what nature was this ownership. The grantee is made absolute owner, not relative, as in the case of an over-lord. We must, I think, interpret the *agrahāra* land-grants mentioned in the epic in the light of those actually extant.

[1] Nārada's Law Book.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

But how else should we interpret the power and ownership of kings in the light of such callous remarks as meet us in the literature? One passage of the epic declares: "All property is the result of conquest and robbery. The best property is that which one gets by taking it from another. When kings conquer earth, they speak of the land just as sons do of their father's property and say: 'This land belongs to me.'" Of the "king-devoured people" the king himself was absolute master, and it seems almost unnecessary to urge that the land was his or his subjects', in accordance with the tyrant's will. Sages admonish, but the kings steal and give and take as before. To them in their power there was but one rule — that enunciated again as a proverb in the epic: "To the mighty all is proper; to the mighty all is right; to the mighty all is their own."

In the preceding paragraphs I have referred to the growth of land-giving. It begins with a kingly gift of a field to a priest. The early law does not approve of such gifts, but the later law praises them. The epic extols them as in the highest degree meritorious. The practice appears to have grown up in the large eastern kingdoms and is a feature of Buddhism. The epic says emphatically that all property belongs to the king "and to no second person"; while it mentions several cases of *agrahāra* land-grants, though it does not know the copper-plate grant, which appears first in the law book of Yâjnavalkya. These grants, as described in the epic, are made either to priests or to personal friends of a king or queen. Land-giving on a large scale is called an "earth-sacrifice." In these cases the recipients become actual owners, not over-lords.

The bearing of these facts on the question of village-communities is patent. The land was not given to villages but to individuals. The villagers themselves might be taxed simply or removed at the owner's pleasure. At the same time, there are not lacking indications that Aryan village holdings were recognized.

E. WASHBURN HOPKINS.

YALE UNIVERSITY.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

FRANCE OF TO-DAY.[1]

WITHIN the past year two elaborate studies of contemporary France have appeared. That by Baron de Coubertin has already been discussed in this QUARTERLY.[2] Although that work (like Mr. Bodley's book, with which we have to do primarily here) is first and foremost an essay on the political and parliamentary *régime*, the author finds space to discuss instructively, if briefly, other important phases of French life — all with that remarkable openness of mind and keen national self-insight so peculiar to the French. But, in spite of its marked excellencies and breadth of view, M. de Coubertin's work is a little esoteric. It was written for Frenchmen, and demands for its complete understanding a somewhat intimate acquaintance with the ins and outs of French political life and of French parliamentary phrase and custom. Many allusions, and even some of the solid instruction in the volume, may on this account be lost for the average American reader. For this M. de Coubertin is, of course, in no way to blame. Had he endeavored to make his book more readily intelligible to the foreigner, it would inevitably have lost half its charm for those for whom it was primarily written. His translator has, moreover, ill performed her task. Not only has she failed to render any assistance by a judicious footnote here and there, but she also confuses the reader by many an awkward, even downright incorrect, rendering. Mr. Bodley's work, on the other hand, comes to us in what is at once his own vernacular and ours. It is written for his own people and its political terminology — naturally that of Great Britain — is better known to us than that of France.

No one can take up his volumes without being struck by their freshness and promise. They contain much that is entertaining, much that is new, much that is instructive. The conscientiousness of the writer is beyond reproach. It first exhibits itself in a detailed account of his seven years of special preparation for his task, of the cities and villages which he visited, and of the ex-ministers, officials, *savants* and *litterateurs* who entertained him and forwarded his researches. The elaborate *pièce justicative* with which Mr. Bodley

[1] France. By John Edward Courtenay Bodley. New York, The Macmillan Co., 1898. — 2 vols., xviii, 345, 504 pp.

[2] See vol. xii, pp. 711 *et seq.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

prefaces his work affords ample evidence, indeed, that no one ever more thoroughly realized the delicacy of his task or fitted himself more conscientiously for its execution or had more favorable conditions in bringing it to a happy issue.

The initial impression of general cheerfulness which one receives upon visiting France, and which the transient sojourner carries away with him, is, Mr. Bodley claims, soon displaced, as one comes to reside in that country, by the conviction that the French are no longer the sanguine people that they once were.

> The *esprit critique*, which made the French Revolution, has never ceased to be active, but under the Third Republic it has taken the form of pessimism, acute and contagious, affecting every portion of the nation, excepting that which goes resolutely about its daily work without troubling to think whether France is ill or well governed, or what is the precise nature of her prestige among the powers of Europe.

In his search for the cause of this striking phenomenon, the writer rejects the explanation that French pessimism is merely a symptom of the universal malady of the age, and concludes that "there are peculiar causes which give to the nation its predisposition, unnatural to its temperament, to contract inordinately the dolorous contagion." The theory, commonly held, that the disastrous reverses of 1870 still weigh upon the spirit of the French, producing peevishness and suspicion, loses much of its plausibility in view of the fact that in the years immediately following the war, while the Prussians were still encamped on their soil and the ravages of war were still about them, all classes of the French were hopeful rather than downcast. It is after a quarter of a century of prosperous peace and unprecedented stability of government that the gloom has grown deepest.

> The rancorous discord in French public life [Mr. Bodley concludes] is a persistent source of the malady which has a more depressing effect than the distant memory of a sharp grief; and the steady growth of pessimism is a sure sign that there is something essentially wrong in the government of the country. The root of the ill is to be found not in its republican form, though the democratic basis of that *régime* extends the area of the evil, but in the parliamentary system.

The discredit of the parliamentary system is, in turn, ascribed to its association with a highly centralized administration, "constructed to be manipulated by one strong hand, and, instead of modifying the defects of centralization, parliamentary government aggravates them."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED.

To this important theme Mr. Bodley devotes the greater part of his work; and his experience in English political life, coupled with his long residence in France, enables him to speak as one having authority. He sums up the matter in the following words:

An essential feature of a centralized bureaucracy is the profusion of offices held directly from the state; and the French have found out that, whatever the evil of vesting their patronage in a strong central power, it is more harmful to the commonwealth to transfer it to the elected representatives of the nation; for, as we shall see, each member of Parliament, not hostile to the government, thus becomes a wholesale dispenser of places, controlling the administrative and fiscal services in his constituency, and supervising the promotion of the judges. Moreover, to augment his popularity, a legislator likes to have as many posts as possible to bestow.

Mr. Bodley's reflections can scarcely fail to interest a citizen of the United States, who may, however, question whether the control of patronage by members of legislative bodies necessarily superinduces pessimism. Most of us are able to behold political corruption in high and low places with a degree of equanimity, not to say cheerfulness, which might have caused Mr. Bodley, had he been more familiar with our conditions, to distrust his generalizations.

Another topic, which unfortunately is sure to catch the eye of the American reader, is the popular newspaper, although the Parisian penny-dreadful is obviously different from our own.

Every day throughout France are distributed tens of thousands of cheap journals, which, expressing every shade of opinion from the doctrine of the Commune to reactionary clericalism, have one feature in common, the scurrilous aspersion of public men. Sometimes the objects of their fury are not worthy of the high position to which the hazards of an ill-contrived political system have raised them; but, as a rule, the defamatory clamor has little relation with the real actions or character of the persons denounced. At all events, it is demoralizing for the nation that those who read the newspapers in town and country should daily be told that all Frenchmen in authority, whether politicians, diplomatists, judges, or ecclesiastics, are tainted with vice or even branded with crime.

Before entering upon the discussion of his main subject — parliamentary government in France — Mr. Bodley devotes several chapters to the relation of that perennially fascinating occurrence, the Revolution, to modern France. A more profound study of the conditions existing previous to the summoning of the States General in 1789 would certainly have led our author to form a different conception of the Revolution itself and of its results. He regards the reform move-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ment as simply political: he does not view it as fundamentally civil, social and economic. Hence he dwells — as is, indeed, quite in accord with tradition — upon the least happy of the innovations of the early legislative assemblies, to the exclusion of their great and permanent work of reconstruction. This one-sided view is illustrated by his "table of some of the more important dates in the history of France," in which neither the decree abolishing the feudal system nor the civil constitution of the clergy finds a place. His conventional view of the "Terror" is betrayed by his estimate of Camille Desmoulins, whom he ranks with Robespierre and Fouché as a ferocious guillotining leveller. Even Carlyle knew better than that.

Nevertheless, the earlier, essentially introductory, chapters upon the theory and practice of the three arch-dogmas of the Revolution — liberty, equality and fraternity — are not only admirably written, but are at once instructive and diverting. The average reader, even if indifferent to the more exhaustive account of the representative system which follows, will read these pages with pleasure and profit. The French seem to Mr. Bodley to cling to the mechanism of despotism under the present republic as though to preserve it for the use of the master they may at any time decide to set up again. From an English standpoint the increased degree of liberty which the republic, as compared with the second empire, permits the French to enjoy is inconsiderable. Moreover, our ideas of personal freedom are shocked both by the legal procedure in France and by an intolerance in religion which plays a curious rôle in public affairs. So much has recently been said of the French judicial system, as illustrated by the trial of M. Zola, that its characteristics are tolerably familiar to us. Criminal procedure has been somewhat modified of late, but Mr. Bodley thinks that there is no prospect that the magistracy will adopt, or that public opinion will enforce, the doctrine which presumes the innocence of a prisoner before trial.

While there is much sincere tolerance in France and much more or less philosophic indifference, there are, unfortunately, two opposing groups of fanatics in whom all the bigotry of earlier centuries lives on. The clerical party may have some claims to indulgence, on the ground that it merely adheres to a once universally accepted belief in the expediency of enforcing religious conformity. The anti-clerical party, on the other hand, is only a parody of the party it opposes: it imitates the vices, but is entirely wanting in the virtues, of its equally frantic rival. In illustration, Mr. Bodley cites cases which happily have no analogies in this country, except perhaps in local educational

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

matters. A postmaster, for instance, is kindly warned by the sub-prefect that it is reported that he not only goes to church but takes a book with him, and that a man who follows the service with a book must not be surprised if he be put down as a "clerical." This fact, as well as the active part taken by the postmaster's daughters in church affairs, is duly recorded by the representative of the local government, and may later make trouble for the postmaster. Such terrorizing affects public servants of every rank — from the most humble functionary to the president of the republic, who may not be seen in church for fear of arousing widespread political suspicion and opposition.

The official pretension of the French that their nation is peculiarly endowed with a love of equality Mr. Bodley declares to be but a stale repetition of an outworn Revolutionary legend. His discussion of the "Legion of Honor" and of the use of titles of nobility, as contrasted with that in England, is not the least suggestive part of his work. The doctrine of fraternity, too, as it is applied in France, is easily shown to exhibit many anomalies and contradictions, which are discussed by our author under the suggestive headings: "Harshness of Frenchmen to Frenchmen," "The Cult of Fratricide," "The Furies of Journalism," "The Philosophy of Scapegoats," *etc.*

After briefly reviewing, at the close of his first volume, the history of the executive since 1873, Mr. Bodley devotes the whole of his second volume to the parliamentary system and the organization of political parties. This exhaustive study of the organization and actual conduct of the French legislature forms the central theme of the entire work. While the writer believes the parliamentary system to be not simply a downright failure but the root, as well, of many of the evils upon which he dwells, he does not allow this conviction to prevent his treating the subject in a singularly objective fashion. He is eminently just and exhibits what may be called a spirit of scientific sympathy. He considers the perversities of the Senate and Chamber as an alienist might view the equivocal conduct of a lunatic, in whom he saw only the ill-starred victim of circumstances — curious, indeed, and perhaps instructive, but certainly not an object of reprobation. Mr. Bodley writes frankly as an Englishman well satisfied with the system of lawmaking peculiarly associated with his own country. England, he thinks, has been governed under a *régime* which suits the national temperament, while France has not.

> The British Constitution [says he] deserves most of the praise that has been applied to it; but its name implies that it is admirable as a working

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

machine within the realm in which it has slowly developed. As the Church of England says of one of its sacraments, it is not intended to be "carried about or worshiped"; and this is how the French *doctrinaires* treated it.

But the reader must turn to the book itself for a description of the French Parliament, of the parties of which it is composed and of the venality of which it has been so freely accused. One more quotation relating to the frequency of ministerial crises, may, however, be added, because it tersely expresses the hopelessness of the existing system, as it appears to a careful observer:

> In considering the working of the parliamentary system in France, we always get into the same series of vicious circles. If to remedy ministerial instability ministers were no longer responsible to Parliament, the machinery of centralization might fall into the power of an ambitious band, who would dispense with the legislature in governing France. Or if the nomination of the ministers, no longer responsible to Parliament, passed, in reality as well as nominally, into the hands of the chief of the state, he, if popular and capable, would be subject to the temptation of making himself dictator by nominating his own creatures, who would abet his schemes of autocracy by means of the redoubtable machinery confided to them. Consequently, there is no remedy under a *régime* of representative government. Ephemeral ministries must succeed one another at brief intervals, the office of minister must remain in misesteem, and parliamentary anarchy must continue, because France possesses a centralized system of administration essential to her existence, and because the French have an ever-latent longing to be governed by a master.

All students of French institutions will not agree with Mr. Bodley that escape from this vicious circle is impossible. Professor Saleilles, for example, although he sees much to lament in the working of the government, perceives at the same time a very encouraging development under the present constitutional laws. Is it not possible, as he suggests, that under stress of circumstances, the minute subdivisions of party may in time give place to two predominating groups which will govern in turn the choice of president and ministers? "The parliamentary system," he maintains — *contra* Mr. Bodley — "combined with the election of the head of the state by the Parliament, may become an instrument of the first order, for so soon as the majority shall find itself dominated by two powerful forces — the president and the ministry — proceeding from it, it will immediately submit to their directing influence." [1]

[1] *Annals of American Academy of Political and Social Science*, VI, 76.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The derivation of the French parliamentary system from that of England appears to Mr. Bodley to justify an almost exclusive use of the institutions of his own country as a basis of comparison. He scarcely exhibits even a superficial knowledge of other constitutions than those of France and of Great Britain. From a study of Germany one is naturally deterred, he observes, by the difficulty of its language. As for our own "sovereign states," as he calls them, and the Union which they have formed, these call forth only an occasional allusion. Englishmen have, as Hamerton well says,[1] generally refused to see anything natural or regular in the remarkable process of French development; and Mr. Bodley, in spite of every precaution, sometimes falls into this extremely English way of looking at French affairs. France's love of military glory and her enduring instinct of submission to an arbitrary ruler are to him the only two national characteristics which enable us vaguely to forecast the future.

In point of style the volumes before us show much resource: illustrations chosen from the author's own experience meet us on every page, and there is none of the aridness which we might expect as we take up a treatise on government. Occasionally, however, a sentence degenerates into a series of historical or literary allusions and dubious innuendoes, which tax the reader's patience or excite a smile.

In conclusion, it should be noted that Mr. Bodley's work is, as he himself realizes, not a symmetrical account of the French nation as it exists to-day. Nor is it likely to become such, even if the author adds, as he plans to do, one or more volumes dealing with other phases of the government; for, as an acute critic of the work — himself a Frenchman — has pointed out, the Constitution in France "holds no such place, as an element of its national life, as the British Constitution and the Constitution of the United States hold in the national life of the English and of the American people." The depressing reflections aroused by Mr. Bodley's melancholy picture of the workings of the parliamentary system in France must not, therefore, be allowed to extend to the activity of the people as a whole, any more than a history of the legislature of New York during the past quarter of a century should be looked upon as an exhaustive account of the people of that state during that period.

JAMES HARVEY ROBINSON.

[1] *Cf.* French and English, I, 146.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

A STUDY OF TRADE UNIONISM.[1]

TO the economists of the next generation, and perhaps even to those of the next decade, the vigor and persistence of current discussion as to the interrelation of sociology and economics will probably appear both surprising and regrettable. They will recognize the periodic recurrence of dialectic debate upon scope, method and concept as a necessary incident in the development of economic, as of every psychological, science; they will admit the profit of such discussions, as affording mental exercise, as developing critical acumen and even as effecting that scientific progress which results from mere reaction in method; but they will lament the dissipation of effort and energy and will describe the period as barren. Such a mental forecast is perhaps the best justification for the eagerness with which the ordinary economic student — worn and bruised in faithful effort to grasp the *rationale* of current sociological discussion — now turns to find healing balm in an accomplished piece of sociological investigation. If the product not only represents a real contribution to the body of organized social data, but is likely by its method to excite and shape further economic inquiry, his satisfaction is complete. For this reason the American economist will welcome Mr. and Mrs. Sidney Webb's remarkable volumes. They come as a wholesome corrective of a growing mischievous tendency towards economic dialectics. They reveal the application — more successful than in any other English economic study — of the historical-comparative method to social investigation. They present an interpretation of the nature, theory and functions of formal industrial organizations — an interpretation which (subject to the limitations imposed upon any study of social dynamics) is practically definitive.

The work has been slow in the making. Something more than six years have elapsed since the authors first undertook a study of the trade-union movement in Great Britain. The first stage in the investigation was attained in 1894, and was marked by the publication of *The History of Trade Unionism*, wherein was traced the historical development in the United Kingdom of "the continuous association of wage-earners for the purpose of maintaining or improving the con-

[1] Industrial Democracy. By Sidney and Beatrice Webb, London, New York and Bombay, Longmans, Green & Co., 1898. — Two vols., xxiv, 929 pp.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ditions of their employment." A final chapter of that narrative presented a graphic picture of the organization and characteristics of the modern trade union; but an analysis of the economic effects of trade-union action and a detailed treatment of the actual working of trade unionism in particular industries were explicitly reserved for a subsequent volume on the problems of trade unionism. That promise is now redeemed, and the comprehensive inquiry thus initiated six years ago is brought to splendid completion in the volumes before us. In the process of completion we suspect that, even in the authors' minds, the two divisions of the investigation have undergone inversion in importance. The criticism, originally designed as an appendage to the history, has become the essential to which the narrative is now a mere preliminary. Certainly it is in this latter relation that the two works will hereafter rank.

It is unnecessary to remind the readers of this QUARTERLY of the peculiar fitness of Mr. and Mrs. Webb for the task which they have accomplished. To the ordinary equipment of trained economic investigators, including intimate acquaintance with the development and status of economic thought, were added exceptional access to data and sources and keen intellectual sympathy with the subject under investigation. Collaboration in authorship permitted an almost unique division of labor. The volumes are symmetrical and unified to a degree; but a careful reader will perhaps detect in their preparation a union of easy use of documentary material and skillful extraction of verbal evidence, which represent the respective qualifications of the writers.

The method employed in the study is described in great detail in a carefully prepared preface, probably written (as is all good prefatory material) after the completion of the work proper and representing the experience rather than the preconceived plan of the authors. To future investigators the authors recommend a preliminary collection of tentative hypotheses and a mastery of previous inquiries, to be followed by an actual investigation of facts by means of three instruments of sociological discovery: documentary material, personal observation and direct interview. This is surely not to be described in the terms of the impressive advertisement of the publishers, as "a new view as to the scope and method of political science." There is, indeed, an unpleasant nostrum-like suggestion in the opinion of the authors that,

> by the pursuit of these methods of observation and verification, any intelligent, hard-working and conscientious students, or group of students, applying

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

themselves to definitely limited pieces of social organization, will certainly produce monographs of scientific value.

Yet it is proper to add that there is no exposition of method in English, and none of the same compass in any other language, which will prove of more direct, practical value to a prospective investigator, confronting for the first time an undiscovered country of sociological facts, than the detailed account which Mr. and Mrs. Webb have given of their own experience.

The order of treatment represents a conscious and altogether admirable adaptation to sociological inquiry of the procedure of the biological investigator. The organization and constitution of trades unions are first studied; a descriptive analysis of their methods, regulations and policies follows; finally, a theoretical interpretation of underlying principles is attempted. In short, trade-union structure, trade-union function and trade-union theory represent the three fundamental divisions of the treatise.

The typical trade union of the last generation was crudely democratic in structure. All important business was transacted by the aggregate membership, while routine matters were reluctantly delegated to informally appointed officials and committees, serving in rotation and for short periods. Even after the loose alliances of independent local clubs had been succeeded by national organizations, central authority was exercised in turn by each of the branch societies, and important propositions were submitted to the vote of the society as a whole. The need of more efficient administration brought salaried officials and a central governing committee. Finally, with increase in numbers came a complete breakdown of the primitive democratic constitution and the appearance of the modern type of trade union, "the elected representative assembly appointing and controlling an executive committee under whose direction the permanent official staff performs its work." This is essentially the present organization of the two most important industrial bodies in Great Britain — the coal miners and the cotton operatives, together comprising one-fifth of the aggregate trade-union membership — and it represents the structural organization towards which future trade-union development points.

The unit of government within the trade-union world has, moreover, expanded from the town to the trade; and experience seems to suggest the complete union of each trade within the British Isles as the proper combination for effective service. As a result, in essential matters — such as finance and policy — local autonomy has yielded

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and will probably continue to yield to centralized, even bureaucratic, administration. Repeated attempts have been made to extend this centralization to complete amalgamation of allied trades, but without enduring success. A trade union exists for the purpose of securing definite conditions of employment in a particular industry; and that entire identity of vital interests, upon which strength of organization depends, exists only among the members of that trade. Yet among the members of allied trades there is a certain community of interests, and to this extent union and combined action are possible and desirable. Thus, in its most efficient organization, trade unionism presents "a series of widening and cross-cutting federations, each of which combines, to the extent only of its own particular objects, those organizations which are conscious of their identity of purpose."

The function of a trade union may be described in general terms as the establishment and maintenance of minimum conditions of employment. This ultimate result is sought through strategic methods of obtaining and enforcing specific regulations. From the beginning of the eighteenth century to the present day, British trade unionism has employed three such methods: mutual insurance, collective bargaining and legal enactment. It has used these methods to enforce a multitude of regulations, differing in technical detail but capable of classification under such main heads as the standard rate, the normal day, sanitation and safety, new processes and machinery, continuity of employment, the entrance into a trade, the right to a trade. A detailed examination of these several methods and regulations, with a review of their implications and assumptions, constitutes the second part of the treatise.

Mutual insurance, as here treated, consists in the provision of a common fund to maintain a member of a trade union while physically incapacitated or temporarily out of employment. Of the two distinct classes of benefit thus conferred, the insurance against casualties occupies a position of distinctly subordinate importance. It is, indeed, retained largely because of its incidental advantages in attracting recruits, in maintaining discipline, and in accumulating and preserving a financial reserve. It is by supporting members out of employment that mutual insurance becomes distinctly a method of industrial regulation. The theory of "out-of-work benefits" is that any individual member must be prevented "from accepting employment, under stress of starvation, on terms which in the common judgement of the trade would be injurious to its interests." In other words, a trade union, to make its demands effective, must be prepared "to buy

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

up, more or less, its surplus labor on the market." In small and highly organized trades of skilled artisans, the support of the deliberately unemployed can become, in the form of "a strike in detail," an aggressive weapon for enforcing trade-union regulations. Failing to obtain from an employer compliance with any actual demand, the members of such a union will simply withdraw one by one and will be supported from the common fund until some adjustment is reached. Manifestly, such procedure is possible only in organizations practically co-extensive with the trade; and even here it is subject to the serious evil of promptly reducing negotiations between employer and employed to a mere test of endurance. Until collective bargaining had won legal recognition, and before legal enactment had come within the industrialist's reach, mutual insurance was the only practicable method of enforcing trade-union regulations. It has since declined in relative importance, and at the present time it is but little used by the most successful industrial organizations.

The commonest method employed for the enforcement of trade-union regulations is the procedure described with singular felicity as "collective bargaining." It assumes the fact — recognized by economists from the days of Adam Smith — that the economic conditions of the two parties concerned in the wage relation are unequal and that, even under the conditions of nominally free contract, the isolated wage-earner is at a strategic disadvantage. Industrial organization, in permitting collective negotiation and agreement on the part of the employed as to the terms of the wage contract, reduces the disadvantage; and, if combination is not met by combination, it actually inclines the balance in favor of the workmen.

In consequence, over a large part of the industrial field, collective bargaining has superseded the old individual contract; and although it is neither limited to nor co-extensive with formal industrial organizations, "it is the trade union alone which can provide machinery for any but its most casual and limited application." In the trade-union world as a whole, the machinery employed for collective bargaining is extremely defective. A few piecework trades have, however, developed agencies for this purpose, which, while perhaps not exciting "the admiration of economic students all over the world," certainly merit their attention. They are based upon the vital distinction which exists between interpreting the technical details of an existing wage contract and negotiating the terms of an essentially new one; and upon the assumption that for the former function salaried experts respectively representing employer and employed are

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

desirable, while for the latter a joint committee composed of a certain number of representatives of each side is necessary.

It is this consideration which makes it unlikely that arbitration, whether voluntary or compulsory, is to be the ultimate solution of labor struggles. Dispute as to the terms of a new wage contract rests in the last analysis upon the divergent assumptions of employer and employed as to the proper basis of wages; and in such instances recourse will rarely be had for final adjudication to an independent tribunal. Industrial conciliation is destined to play a large and increasing part in the settlement of labor disputes, but it will be less useful as affording a panacea than as hastening and simplifying the more effective procedure of collective bargaining.

Parliamentary legislation has at all times served as an instrument of industrial regulation in Great Britain. It is only in the last quarter of the century, however, since the decline of the doctrine of *laissez faire* and the extension of the franchise, that legal enactment has become a common method of trade-union activity. With the larger political importance of the industrial classes and the greater effectiveness of their organization, it is likely that the future will witness increasing resort to legislative control. In many respects, legal enactment represents the most effective method by which trade unionism seeks to attain its ends. It is universal in its application and permanent in its effect. It is, in short, "the ideal form of collective bargaining, a national agreement made between a trade union including every man in the trade, and an employers' association from which no firm stands aloof." In view of the importance of this method, it is surprising to find that in but two great industries — cotton and coal — has any really effective machinery been developed for obtaining the legal regulations sought for. The explanation lies in the fact that successful political agitation must be based upon the pressure of localities rather than of interests. It is because the coal and cotton societies represent organizations according to locality, as well as according to trade, that they have been peculiarly successful in this respect. For the trade-union world as a whole, it is necessary to admit that, up to the present time, "the problem of superposing an organization according to locality upon one according to trades, has, in fact, proved too complicated for trade-union statesmanship." Existing agencies for securing collective political action — an annual Trade-Union Congress, a Parliamentary committee and local trades councils — are pretentious rather than effective; and in the absence of radical rearrangement

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and coördination, their influence must continue far less than might reasonably be expected.

Upon approaching the series of chapters devoted to the specific regulations which British trade unions seek to enforce, the courage of the reviewer fails. The acuteness of reasoning, the unity of treatment, the wealth of vital detail of this part of the work (which forms more than one-third of the whole) render any summary notice of its contents almost hopeless. With the most generous limits of space, it is possible to give only hasty, disconnected glimpses of what can conservatively be described as among the most remarkable specimens of descriptive analysis in the domain of social-economic phenomena.

The innumerable technical regulations in respect of wages, time, health and safety, which trade unions endeavor to establish, are characterized by one fundamental motive — the fixing of minimum conditions of employment, applicable to whole bodies of workers. The enforcement of "common rules" may fairly be described as a universal feature of trade unionism. Their theoretical justification is, briefly, that with free competition and individual bargaining in the determination of conditions of employment, the two parties to the labor contract are of distinctly unequal economic strength. A settlement under such conditions tends, by the operation of accepted economic principles, to reduce the great body of workers to the least favorable conditions of employment and leaves the specially qualified in a far less satisfactory condition than would otherwise be attained.

Applied to the problem of remuneration, the principle of a common rule takes the form of the enforcement of a "standard rate," or insistence upon payment for labor according to a common uniform scale. It establishes a minimum and never a maximum rate; and it neither attempts nor desires to secure absolute equality of wages. Identical pay for identical effort involves for the exceptionally skilled workman larger earnings under the piecework system and a rate higher than the standard under the time system.

With respect to the length of the working day, the principle of the common rule is expressed in the demand for a "normal day," or the settlement of a maximum working time applicable to all members of the trade. With the costly plants and interrelated processes of modern production, the impulse of the manufacturer is toward a "speeding up" of machinery or an outright extension of working time. Under the system of individual contract, it becomes possible for the employer ultimately to impose upon the whole working force the longer working day which the desires or necessities of a few workmen lead them to

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

accept. When we consider, in addition, the deep-rooted conviction of the workmen that irregular or unlimited working time will in the long run exert an injurious influence upon remuneration, it is possible to understand why the normal day is, after the standard rate, the commonest of trade-union regulations.

In like manner, the trade-union demand for prescribed minimum conditions of safety and sanitation in employment has resulted from the inability of the workman to secure these conditions in an individual contract. This attitude has been strongly supported by public opinion and Parliamentary legislation ; and a long series of enactments designed to prevent accidents, to improve sanitation and to increase comforts in work-places may be said to have culminated in 1897 in the passage of Mr. Chamberlain's "revolutionary" Workmen's Compensation Bill, whereby large classes of employers have become individually liable for all accidents suffered by workmen in the course of their employment, whether caused by negligence or not.

The growth of protective legislation and the development of employer's liability suggest consideration of the attitude of the workman towards the introduction of machinery and improved processes of manufacture. Here has occurred a remarkable change in the doctrine and practice of trade unionism. A half century ago, the attitude of organized labor towards any radical change in industrial process was outright, uncompromising opposition, the intensity of which appears not only in the enduring impress left upon the economic writing of the period but also in the current identification in public opinion of labor organizations and opposition to industrial improvement. As a matter of fact, the labor disputes which are now connected with machinery arise, not upon the question of its introduction, but upon the conditions of its employment. At the present time, the trade unionist makes no attempt to prevent the introduction of machinery, but simply insists that its use shall not disadvantageously affect his status. Where the new process involves the ultimate displacement of the skilled laborer, he has learned not to struggle in hopeless, degrading competition, but "to abandon to the machine any part of the trade within its scope, and more and more to concentrate attention on maintaining and differentiating the peculiar qualities of [his] own special article."

A no less remarkable evolution in trade-union policy has occurred with regard to the restriction of numbers within a trade. The rigid limitation of apprentices, at one time a cardinal principle and a universal practice of industrial organizations, has passed away in by far the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

largest part of the field where it once prevailed, and has failed entirely to find lodgment in the occupations to which a positive majority of trade unionists now belong. It is almost startling to learn that the assumption that better industrial conditions can be obtained by limiting the number of competitors "cannot be said to form an important part in the working creed of the trade-union world."

The regulations above described represent the general industrial policy of British trade unionism. There is, however, marked divergence between different unions as to the relative emphasis put upon the several demands, and as to the method chosen for enforcing them. This divergence is explicable by reference to the distinct, even contradictory, views entertained as to industrial welfare and as to the general principle upon which the terms of the labor contract ought to be based. The historical assumption of trade unionism might be described as a doctrine of vested interests — a theory that the rate of wages and the general conditions of employment hitherto enjoyed by a trade must, under no conditions, be changed for the worse. Herein lies the explanation of the traditional hostility to machinery and of the emphasis still laid in certain trades upon enforced terms of apprenticeship, customary rates of wages and strict demarcation between trades. But public opinion has long since repudiated the assumption, opposed alike to industrial progress and to the modern spirit, that any workman can have an established right in an occupation; and the conception of vested interests has been succeeded by a doctrine of supply and demand, based upon the assumption that labor is a commodity, subject to the rules of the market and capable of appreciation in value only by an increase in demand or a reduction in supply. The resultant program has been the attempted inclusion within a trade union of all the workmen within that trade, the advocacy of "sliding scales" in wage contracts, the encouragement of improvements in machinery and the desire for a deliberate regulation of output. Finally, within our own day has emerged the doctrine of a "living wage," which asserts, as the fundamental condition in the settlement of an industrial contract, that capable workmen are entitled to receive, whatever be the state of trade, "a minimum sufficient to secure their efficiency as producers and citizens." To the extent to which this doctrine has gained recognition, we find new insistence upon absolutely tolerable conditions of employment and, above all, upon a minimum wage below which no workman should be employed. In their review of the economic characteristics of trade unionism, the authors take the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

position that the essential safeguard against industrial parasitism lies in the legal enforcement of national minima of wages, leisure, sanitation and education.

The theoretical economist, as distinct from the social investigator, will find greatest satisfaction in the brilliant discussion of the underlying principles of trade unionism, which constitutes the third and final section of Mr. and Mrs. Webb's work. An initial chapter traces the radical change in the opinion of English economists as to the effect of labor organization upon economic processes. Recent doctrinal histories have made familiar the ground here covered, and the present narrative merits attention from its detail and local color rather than because of its novelty. Such, however, is certainly not the case with a succeeding chapter on "The Higgling of the Market," devoted to an analytical study of the working of competition in the industrial field. Economic science has been slow to emerge from the arbitrary mold in which the formalism of James Mill and J. R. McCulloch cast it. Current studies of the theory of value and of the influence of subjective estimation have fairly compelled some development of the theory of consumption. Here and there a bold spirit even laments the inadequacy of existing theories of production. But the limitation of the theory of exchange to a discussion of value and money is practically accepted without dissent. Yet it is obvious that even perfected expositions of value and of money reveal but the theory and mechanism of exchange. There is still imperative — indeed, fundamental — need for an analysis of the medium within which exchange relations occur, and by which they are deflected and influenced. The classical economists bridged the gap by an outright assumption of free competition and unrestricted play of self-interest; and it is no small reproach to their later-day successors that, with the fullest recognition of the extravagance of this assumption, there has been but feeble attempt to supply the deficiency. In their detailed study of the business world as it now exists, with its intricate complexity of organization and motive, Mr. and Mrs. Webb have not only attained results to which every subsequent student of modern industrial structure will pay willing tribute, but they have made a definite contribution — perhaps not final, yet certainly useful and welcome — to the body of economic theory.

There is a likelihood of involuntary unfairness, and a certainty of disproportionate emphasis, in any attempt to supplement a general estimate of these volumes by a criticism of details. From the authors' general attitude there will be no serious dissent. To pronounce the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

work "an academic apology for trade unionism" is either an archaism or a gibe, worthy of no more serious consideration in the one case than in the other. Bearing in mind the pronounced views of at least one of the writers upon the trend of social development, the scientific spirit and mental detachment displayed in the work are remarkable. In a last chapter on "Trade Unionism and Democracy," the rôle of the social prophet is essayed; but this is only after deliberate notification, and the work as a whole is rigidly judicial and devoid of partisan bias. Leaving aside the somewhat extravagant measure in which the structural evolution of trade unionism is exploited for lessons in political development, perhaps the single qualification to be added to the last statement is based on the selection of a partisan creed as the title of a scientific study. The text, not the title, should reveal that trade unionism teaches "the imperative lesson that political democracy will inevitably result in industrial democracy"; but happily this is neither the burden nor the motive of the treatise.

The style of the book is clear and fluent, and suggests that the easiest reading probably involves the most careful writing. Here and there occur a florid passage, a ponderous footnote, a reiterated fact; but in the main the text is worthy of the content. A remarkable feature of the work is the originality and felicity of its terminology. The precision of such terms as Collective Bargaining, Vested Interests, Legal Enactment leave the theoretical economist tingling with envy and more than atone for a too lavish use of capital letters. The mechanical construction of the book is excellent, but hardly explains the extravagant price at which it is put upon the American market. The index and supplementary bibliography offer no ground for unfavorable criticism. But the student reader to whom these volumes offer an inviting vista of pleasure and stimulus can well be spared petty details of this kind; for, after all, the final verdict upon Mr. and Mrs. Webb's treatise must be one of high praise. As a chapter in economic history, as a study in economic analysis and as a contribution to economic theory, their work richly merits the recognition of economic scholars and investigators the world over.

J. H. HOLLANDER.

JOHNS HOPKINS UNIVERSITY.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Erratum: In the June issue of the QUARTERLY, p. 351, Dr. Gennaro Mondaini's book, *La Questione dei Negri,* was erroneously attributed to Prof. Enrico Morselli, who is the author of the introduction only.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

REVIEWS.

Bismarck: Some Secret Pages of his History. Being a diary kept by DR. MORITZ BUSCH during twenty-five years' official and private intercourse with the great Chancellor. New York, The Macmillan Co., 1898. — 2 vols., xvi, 504, 583 pp.

The use of the word "history" in this title is almost as misleading as that of the word "secret." The interest of the author is altogether in himself and in the notoriety to be gained by associating his own name with that of a great historical figure. We are indebted to him for a single important historical paper, and one only — the text of Bismarck's resignation. An accompanying memorial, which would probably be of much greater value, is not given. There is, moreover, no other "secret" page of Bismarck's history, personal or public, amid all the eleven hundred and three now given to the public. No doubt the diarist has in his possession historical papers of value which in due time will see the light, and for this prospect the historian may be grateful.

Many important facts, however, are either referred to or retold with new side-lights and commentaries of interest. We already knew that the King of Prussia was restrained from attending the Congress of Princes in 1863 with the utmost difficulty, that his heir was fiercely impatient with the policy pursued antecedent to 1866 and that the king showed great reluctance in assenting to the Italian alliance against Austria. We read again how Bismarck secured moderation in Prussian councils after Sadowa, how he set a snare for France in the matter of the Spanish throne, how the Ems telegram was "abridged," how he persisted in the bombardment of Paris against the opposition created by certain great ladies, how he intrigued against the Empress Augusta and the Crown Princess, how he regarded the Battenberg marriage as an attempt to win Russian influence for England, how finally he was forced to resign — these well-known tales are told again with freshness and vigor. For the general reader they are seasoned with the stock Bismarck anecdotes, and to those unfamiliar with the literature of the subject they will therefore prove entertaining.

But the unwary must be forewarned. In the first place, the "twenty-five years' confidential intercourse" is a euphemism for an intercourse

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

between master and man of about eighteen months sprinkled at intervals over twenty-five years. Then there is an entire absence of critical accuracy, no reference to other authors, no effort to give correct dates or to place facts in a true light, not a word about the easy indifference to causes or sequence which characterized Bismarck's fluent and gossipy talk. Finally, the man Bismarck is seen through eyes incapable of estimating his true proportions. A pygmy on a hilltop is a pygmy still; or, to change the metaphor, Bismarck plus Busch equals less than Bismarck. Of this the author is himself uneasily conscious, and the plea of his introduction serves only to heighten his offense. In the statesman of these pages we are shown a ruthless, unscrupulous, malevolent wire-puller — and we are told that this is the man who made the German Empire! But we get only an obscured glimpse of the statesman who had studied the system of Frederick the Great and perpetuated it; we have no outline of the man's principles, of his faith, of his powers, thrown up against the background of the evil world, the court intrigue, the stunted social and political development with which he had to deal. We have a chronicle of his petulance when overworked and misunderstood, of his feeding and drinking, of his despair at the problem presented when thousands and thousands of the enemy were captured instead of being killed, of the spite he showed against Beaconsfield as a "Semitic adviser" and against "Professor" Gladstone as a stupid blunderer, and of much more stuff of the same kind. But we learn very little of the dignified appreciation for true worth in which Bismarck's conversation with his peers is known to have abounded.

Some qualities of the true Bismarck can, however, be read either between the lines or in documents which are printed for the first time. There is to be found a complete vindication of the Emperor Frederick II and his Empress. The chancellor's true estimate turns out to have been that the second emperor of Germany was a man of iron will, of independence and judgment — that he was a good soldier and gave promise of being a wise ruler. The Empress Victoria, though Bismarck's foe, is represented as one worthy of his steel. It appears, likewise, that it was with a desire to thwart her anglicizing influence, and not for the purpose of estranging father and son, that Bismarck persisted in giving the "drill-sergeants' education," traditional among the Hohenzollerns, to the present emperor. It is shown, too, that, while Bismarck was often disrespectful in his remarks about royalty and contemptuous in his appreciation of the German princes, he knew a man, even when decorated with tinsel, and truly esteemed

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

his master, while giving just value to certain princelets. The picture of court flunkyism in Berlin and of Bismarck's decline, when once it was clear that William II intended to be his own premier, is what has been suspected but not hitherto so bluntly stated.

It is disappointing that we get no new light on the causes of the war of 1870, on the details of 1890 when the rupture between emperor and chancellor occurred, or on the nature of the relations between Russia and the Dreibund.

Briefly, the matter of historical value (not all new, as has been said) which is given in this chaotic mass may be catalogued under three heads: the light thrown on Bismarck's relations with the first emperor; the reasons why the chancellor's influence waned when William II ascended the throne; and a few state papers, many inspired articles for the venal Spanish, French and German journals, and some remarkable letters rescued from oblivion. As a specimen of valuable papers we may note a letter from the Crown Prince in 1863 with Bismarck's notes, the articles printed in Spanish and French journals antecedent to 1870, and the correspondence of 1879 relating to the alliance with Austria.

There is much of genuine biographical interest: for example, Bismarck's "weakness" for Americans, his inability to appreciate much of Goethe, his literary opportunities and the like. But the reader must not think of Busch as a Boswell. He never interacts for a moment on his employer, and he has no apprehension of the minor traits or tricks in speech or manner which really delineate the man. It is even dubious whether Busch is in any degree the Procopius of the German wars. Of this we cannot be sure until the appearance of the Bismarck memoirs, now in the press.

WILLIAM M. SLOANE.

Township and Borough. By FREDERICK WILLIAM MAITLAND, LL.D., Downing Professor of the Laws of England in the University of Cambridge, Cambridge. The University Press, 1898. — ix, 220 pp.

In the October term of 1897 Professor Maitland delivered at the University of Oxford a series of six lectures, which are here published under a title that conceals rather than suggests the actual purpose and interest of the author. Although the lectures deal with the origin of the borough and the influences that differentiated it from the vill, they are in reality mainly concerned with two special ques-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tions — the development, first, of the idea of property and ownership in the modern sense; and, secondly, of the idea of corporate unity, the "its," in distinction from the "theirs," as Professor Maitland puts it. The lectures are an expansion and in part a modification of thoughts expressed in previous writings, stimulated anew by the reading of Gierke's *Genossenschaftsrecht*, and supported by data drawn from the history of Cambridge, into the detail of which Professor Maitland has gone with great minuteness, especially in all that relates to the question of ownership in the open fields.

The author presents the problem by stating that in Cambridge, in 1803, an enclosure movement gave rise to a dispute regarding the ownership of 1200 acres of open fields in which there were some five acres of waste — balks and odds and ends of sward. Here was land without a certain owner, in England where it is written: *Nulle terre sans seigneur*. There was no lord of the manor, for Cambridge never had been a manor; the king, whatever he might have done three centuries earlier, put in no claim; and it was left for the municipal corporation, three colleges and a neighboring squire to dispute among themselves for the ownership. The jury decided in favor of the municipality, and so established the fact that the municipal corporation had the best claims to the waste land. Was this historically right? Did King John, in his grant to the burgesses of Cambridge six centuries before, look on the men of the vill as a corporate body? Did he confer upon such a body ownership in the soil, with right of escheat and all incidents, as if he were making a grant of land to an individual, a feudal lord, and so placing another story on the feudal edifice?

The first answer comes quickly: King John and his councillors would not have understood the meaning of such a question; the words "corporation" and "corporate ownership" are modernisms; the idea of the *persona ficta* was evolved slowly and painfully as part of the moral and economic struggles of the vill-town community; and "its," as distinguished from "theirs," is not to be looked upon as an "ingenious artifice of jurisprudence," but as a something the history of which demands "patient and sympathetic investigation." To this history, as far as it concerns one borough, Cambridge, Professor Maitland has devoted a great deal of unwearied research.

Stating it to be an historical fact that the corporate idea was definitely embodied in words in the fifteenth century, he nevertheless insists that this same idea "twitched in the brow and quivered on the lip" of the men of the boroughs long before Henry VI granted

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the famous charter for Hull. But he refuses to entertain any proposition that locates the corporate idea with the primitive family or the primitive community; and he even goes so far as to say that corporateness never could have developed in the vill, simply because there never was any economic or practical need of corporate unity in an organization so simple as that of the village community.

Corporateness and corporate ownership took shape, therefore, he concludes, in the boroughs, the *burgi* of Domesday, the old shire-towns, where the conditions of organization and life demanded growth and change and the development of new ideas. These boroughs were vills in origin, for they had open fields, acre strips, balks, meadows, pasture and waste. But they were not ordinary vills; because an "early tribal and national purpose and policy" had made them more populous, compact and military, had made them *tûns*, the markets and moot-stows of shires, had located them outside the hundreds, with a judicial organization of their own; and because they were not under a manorial lord or on the demesne land of the king, their men going with their land to what lord or what church they pleased. Furthermore, they lost their peculiar character as vills, when by the time of Edward I the dominance of trade and the market disintegrated the old hides, hastened the sale of acre strips, and by breaking down the open field system cleared the way for urban life — for that complicated social and business activity, that highly organized and complex society, where first appears ownership in the modern sense, and whence the conception of that fictitious person, the corporation, first emerges.

Having thus presented his propositions, Professor Maitland turns to the Cambridge evidence and sets before us the data on which he bases his theories. He first traces back step by step the men who owned the open fields, and finds that the unequal and irrational arrangement of the fourteenth century was preceded two centuries earlier by a more proportionate system, itself the outcome of an original tribal distribution; and he even hazards a conjecture regarding a special "allotment made in the oldest days to some chieftain; *secundum dignationem*, as Tacitus said." He finds also that, though the lands owned by colleges in the later period were in the hands of religious houses in the fourteenth century, they came originally, not from great lords in large parcels, but in small amounts from laymen and burgesses, — mayors, bailiffs and gildsmen of the borough, — who appear to have held the majority of the acres in the twelfth century. He believes, also, that the want of any corporate sense on

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the part of the strip-owners made usurpation easier by bishops and lay lords, inasmuch as "that crystal of which we can say, 'This is ownership and nothing but ownership,'" had begun to form only around the individual man — in a feudal way around the feudal seignior; in a modern way around the individual burgess — but not as yet around any group of persons, such as a borough government, which was not a unit but a plurality.

Corporate ownership was, then, very late in shaping itself, though ownership in the modern sense had already been conceived. In the boroughs the burgesses early rid themselves of feudal incidents and established a rent-paying or burgage tenure; so that even while the municipal organization was essentially individualistic, — the "it" unformed, the "their" dominant, — landownership received "a modern degree of purity and intensity." But not so corporate ownership. Professor Maitland traces its slow and uncertain growth; he shows it crystallizing gradually about the possession of intra-mural waste and the payment of *haw-gavel;* he shows that the transition from community to corporation had been accomplished in the fourteenth century, but that the corporation was still plural and the extent of its rights undetermined; he notes the long struggle of the corporation to control the commons, to regulate the arable and to make enclosures; and in a rapid survey he brings us back to the point of departure, — the trial of 1803, — with the ownership of the soil of the waste still undecided and the notion of corporate obligation still so hazy that, thirty years later, a Cambridge common councillor could say "that the property of the corporation belonged *bona fide* to the corporation, and they had a right to do what they pleased with their own."

Here Professor Maitland left his hearers, and here he leaves us, with a word of warning against the assumptions that all England passed through the manorial stage — for Cambridge never was a manor — and that all English land had a manorial lord — for the Cambridge waste for six centuries had no certain owner; and he bids us not to call that corporate which is only common, nor that ownership which is only the right to regulate and to rule.

The value of these lectures lies rather in the direction toward which they turn the thoughts of the reader than in the extent of proof brought forward to support the theories presented. Professor Maitland has studied in detail but one borough, and ever and again cautions the reader against believing that the history of one borough is the history of all. But in showing what can be obtained from the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

terriers of Cambridge and in printing his evidence in the appendix, — itself, in fact, a separate treatise, — he has opened a new field of investigation for the student, not only of feudal institutions, but of the history of law and economics in all their phases. It is through such work as this that the student may learn, if he does not know it already, the value of detailed investigation into the history of local institutions.

CHARLES M. ANDREWS.

BRYN MAWR COLLEGE.

Grandeur et décadence de la guerre. By G. DE MOLINARI. Paris, Guillaumin, 1898. — 314 pp.

The aspects of war which have been treated at length are so numerous as to defy accurate computation; but there is one which has received surprisingly little attention — namely, the economic. This is precisely the point of view from which M. de Molinari has approached the question; and herein lies his chief original contribution. In other respects his creed is that of the optimists, of whom, indeed, he is now the patriarch. A contemporary and friend of Cobden, he has lived to see all the expectations cherished by his generation disappointed; and he has written this book to explain why this has happened. This fact accounts, not only for the tone of bitterness which pervades the latter part of the book, but also for the author's failure to maintain throughout the point of view with which he begins. His fundamental proposition, as developed in the first seven chapters, is that *war is a business undertaking, conducted to secure a profit for its promoters.*

War arises, in the first place, says the author, as a phase of the struggle for existence; and this, being translated into ordinary language, is merely business competition. By a successful war a hunting tribe can extend their hunting grounds, and thus increase their food supply. Failing in this, they must resort to infanticide and likewise to the premature taking off of the aged, in order to equalize population and means of sustenance; and these customs are accordingly the rule among tribes unable to make headway against their neighbors. For such a tribe, war is not only a business enterprise, but the only business enterprise open to them. As soon as a tribe becomes agricultural, however, it loses its mobility and cohesion; and, unless protected by its location, it speedily falls under the sway of predatory neighbors. These, finding permanent occupation more profitable than scattering raids, settle in the country as a ruling class, supported

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

by the taxes in kind paid by the conquered. Thus originated all the great states of antiquity. After the foundation of such states, wars are of two kinds: (1) defensive wars against outer barbarians, seeking to displace the ruling race — it was to such attacks that most of the ancient empires finally succumbed; and (2) wars between established states, undertaken by some of them to secure an increase of territory and tribute — that is, profit — at the expense of others. Thus Rome conquered the world for profit, and the Germans conquered Rome for the same reason. This motive caused the Arab attacks on Europe, and likewise the return attacks of the crusaders on Asia; for, as the author remarks, *Lorsque l'expérience eût demontré que les croisades ne payaient pas . . . on y renonça.* For profit the feudal lords made war upon each other; and for profit the kings who succeeded them intrigued and married and fought. Even the so-called wars of religion were dominated by the same motives, for princes chose sides according to interest rather than religion.

Thus far the author's argument advances step by step, each conclusion seeming to follow inevitably from the premises. But just as the reader is looking forward with the greatest interest for the application of the same principle to existing conditions, there occurs a break in the argument so great as to separate the book into two disconnected parts. This consists in nothing less than a sudden change of premises. Hitherto everything is referred to one cause — desire for profit; hereafter everything is measured by another criterion — need for security. After pointing out that the progress of the art of war has put an end to the class of wars first mentioned, — that is, attacks by barbarians upon civilized nations, — he concludes that, since war is no longer necessary to the security of civilization, it has become a nuisance. Granting — *pace* Mr. Pearson — that this danger is past and this class of wars ended, what becomes of the other class, the aggressive wars, waged for profit? As need of security did not cause them, the attainment of security cannot end them. If they were, indeed, business undertakings, they must be expected to continue *so long as they are profitable.* The whole discussion leads up to this crucial question? Is it possible, under modern conditions, for war to be profitable? But instead of seeking an answer, the author takes the answer for granted and propounds this question: Why does war continue, now that it no longer pays?

This begging of the question permeates all the rest of the book with disastrous results. The author's radical individualism, moreover, leads to some rather eccentric conclusions — such, for example,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

as his advocacy of the *quid pro quo* theory of taxation, and his assertion that permanent division would have been better for the United States than the preservation of unity at the cost of war. Nevertheless, several of his conclusions are worthy of careful attention. He finds the cause of the continuance of war and of the increase of state functions to be a division of interest between the people who are governed and the class of politicians who do the governing; the people desiring, according to his opinion, only peace and the decrease of taxes; and the politicians desiring a multiplication of state functions and functionaries, in order to provide places for as many of their number as possible. This desire can be gratified only in two ways — by the extension of state control over lines of business heretofore private, and by war and territorial expansion; and these, accordingly, are the prevailing tendencies of the age. This explanation of "state socialism" and of the "recrudescence of war" certainly has the merit of simplicity. And, so far as concerns the interest of politicians of all parties in the multiplication of office and office-holders, our American experience gives it decisive confirmation.

The last ninety pages are occupied by various appendices containing a mass of statistical and other information concerning war, several of them of considerable value.

EDWARD VAN DYKE ROBINSON.

ROCK ISLAND, ILL.

Industrial Experiments in the British Colonies of North America. By ELEANOR L. LORD. Baltimore, The Johns Hopkins Press, 1898.—x, 154 pp.

The economic reasons that induced England to encourage the production of naval stores in her American colonies were in complete harmony with the doctrines of Mercantilism. In the first place, since England was dependent for these commodities upon Sweden, Russia, Norway and Denmark, the result was an adverse balance of trade with these countries. This condition, regarded by the economist of that day as very serious, would be remedied, it was believed, if the colonies were to produce these stores. Again, it was argued that, if this could be brought about, the colonists would have a staple to export to England in payment for manufactures; and thus the nascent colonial manufacturing industry would be checked, while England's manufactures would increase. In brief, it was hoped that, as a result of this policy, not only would an adverse balance of trade be done away with, but in addition the colonies would cease manufacturing,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

because by exporting naval stores to England they could obtain such articles with less economic effort. Traces of these ideas can be found early in the seventeenth century, but only during the War of the Spanish Succession was this policy of encouraging by bounties the production of naval stores in the colonies embodied in law.

It is of this policy, of these industrial experiments, that Miss Lord treats in her able monograph. We were already fully acquainted with the economic theories on which this policy was based, and we knew to what extent the policy had been successful. Miss Lord throws no new light on the general lines of England's commercial policy: what was essential we knew before. Her careful study of the documents in the English Record office has, however, not been time wasted, for by giving us many details she has made our knowledge of this phase of English policy toward the colonies complete and unquestioned. The subject is, moreover, well handled; the arrangement of the matter is systematic; and the monograph is clearly written and interesting — a rare characteristic in works of this character. Irrelevant, purely antiquarian, details, such as abound in other recent publications on American economic history, are not to be found.

Only one point suggests criticism, and this criticism is not specifically directed against Miss Lord, but applies to practically all other economic historians. This class of students cannot sufficiently condemn the general historian who does not lay adequate stress on the economic history of a state. But such a writer can with equal justice retort that economic historians as a rule fail to comprehend that economic policies are often shaped by non-economic considerations. Specifically, Miss Lord's work is deficient in the failure to point out and explain in detail the military reasons for the policy described by her. At that time England's supremacy on the seas was just being established, and the importance of her sea power was recognized by the government, though not so clearly as it was later. She was engaged in continual wars, and in these wars the navy played an important part. Accordingly, a recognition of the military danger arising from England's dependence for these naval stores upon foreign countries was a very potent factor in leading the English government to encourage the production of these articles in the colonies. This was not the controlling factor, but it was an important one, to which due weight should be given.

GEORGE LOUIS BEER.

COLUMBIA UNIVERSITY.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The History of Mankind. Vol. II. By PROFESSOR FRIEDRICH RATZEL. Translated by A. J. Butler, M.A. With introduction by E. B. Tylor, F.R.S. Colored plates, maps and illustrations. New York, The Macmillan Co., 1897. — 562 pp.

In reviewing the first volume of this translation of Ratzel's *Völkerkunde*,[1] I took occasion to describe the general character of the work. Much that was then said may now be repeated with fidelity to truth. The name *History of Mankind* still appears ridiculously misleading for a purely descriptive work on ethnography, intended for the general reader rather than the specialist. The illustrations of implements, weapons and ornaments still form the only portion of the work which can aid the serious student of culture. As for the engravings of human types, which are in general well chosen, the advent of photographic processes, half-tone and others, has of course rendered them obsolete for the somatologist. For the general reader, they are sufficiently faithful to nature, and they give a true idea of the idiosyncrasies of custom in personal adornment prevalent among primitive peoples. Especially praiseworthy is the statement of the original from which each plate has been made. It is curious in this connection to note the apparent neglect of the rich stores of material offered in the *Reports* of our Bureau of Ethnology.

Little is to be said about the subject-matter in the text. The learned author again betrays prodigious industry in the range of his reading. Few errors of fact occur; and the difficult task of arranging in an orderly way the mass of purely descriptive matter has been well performed. Of critical or analytical material there is none; nor was it to be expected. Once in a while this leads to bald statements of fact regarding matters which are to-day in controversy. As an example, we may cite the entire acceptance of the archæological finds in the Trenton gravels as genuinely palæolithic. On the other hand, a wise indecision as to the origin of the Eskimo stock is apparent.

In this second edition we note many changes from the first, mainly in the line of omissions. In condensing three volumes into two, entire sections of the original work have been eliminated — for reasons not at all obvious. Thus, the treatment of the entire contingent of Asiatic peoples south of Siberia has been swept away. The sections upon Europe, especially those dealing with the Caucasus and the Asiatic tribes of Russia, are also omitted. All the African peoples north of the Sahara are likewise unrepresented in the new edition. It is diffi-

[1] POLITICAL SCIENCE QUARTERLY, XII (1897), 532.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

cult to understand the reasons for this curtailment of portions so important. A history of mankind, or even of primitive mankind, without reference to the Japanese, Chinese, Mongols, Turks, Dravidians or Hindoos, Indians, Arabs, Berbers, Hamitic or Semitic stocks and Europeans, certainly seems one-sided. To me it appears that the value of the entire work for the purposes of the general reader has thus been seriously affected. On the other hand, we note some enrichment of the material on South America, by the use of the recent works of Von den Steinen, Ehrenreich and others.

The English of the translator is rather peculiar and sometimes awkward. Such expressions as "enthralling insight," "stationariness," "a refinement of science which . . . will hardly hold water," "the most conspicuous thing in the Bushman is the smallness of him," *etc.*, are not uncommon. We note a typographical error on page 15, where "Dammann" is misspelled; on page 210 "mongolic" [Mongolian?] is wanting in a capital. Aside from a few slips like these, the bookmaker's work has been very creditably done.

WILLIAM Z. RIPLEY.

MASSACHUSETTS INSTITUTE OF TECHNOLOGY.

Aristocracy and Evolution: A Study of the Rights, the Origin and the Social Functions of the Wealthier Classes. By W. H. MALLOCK. London and New York, The Macmillan Co., 1898. — 385 pp.

The word aristocracy, the author explains in his preface, has no special reference to a "class distinguished by hereditary political privileges, by titles, or by heraldic pedigree." It means rather the "exceptionally gifted and efficient minority, no matter what the position in which its members may have been born, or what the sphere of social progress in which their exceptional efficiency shows itself." In developing this conception of aristocracy or "greatness," the author reaches some curious conclusions. He tells us that a great man, regarded as an agent of social progress, is merely one "who is superior to the majority in producing some given class of result." This result must, however, be something which he makes others do, not what he does in his own person. With greatness in this sense ethical considerations have nothing whatever to do; even intellect is not a necessary element; will is frequently of more importance. The sole test of greatness is that it must communicate itself to others so as to make them think or act more efficiently than they would

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

unaided. From this standpoint the greatest poets are ordinary men, for they cannot increase the efficiency of others; while the inventor of the most trifling machine, no matter how stupid or how mean his aspirations or how stunted his moral nature, is great, for the reason that he makes those engaged in the manufacture and use of his invention act as they would not otherwise have done.

Mallock's conception of the great man is to be distinguished from that of the "fittest" man in the Darwinian struggle for existence. He points out, in the first place, that the fittest man promotes progress only because by a physiological process he raises the average capacities of his successors; whereas the great man promotes progress because he is himself more capable than his contemporaries. Secondly, the fittest man shows his superiority in what he accomplishes for himself and those immediately dependent on him by surviving, while others, because of their inferiority, die or languish; whereas the great man fulfills his social function solely by influencing others and helping them to live and to live better. Thirdly, each process involves a struggle: the one is a struggle for existence and results in a survival of the fittest, whereas the other is a struggle within a small section of the community for the direction of the majority. Social progress is, then, the joint product of two movements: the one is the slow evolution of the Darwinian struggle; the other consists of the rapid changes brought about by the leadership of great men. This brings us to the fundamental proposition of the book, namely, that

> progress of an appreciable kind, in any department of social activity and achievement, takes place only when, and in proportion as, some of the men who are working to produce such and such a result are more efficient in relation to that class of result than the majority; or conversely, if a community contained no man with capacities superior to those possessed by the greater number, progress in that community would be so slow as to be practically non-existent.

Mallock does not, however, carry his "great man theory" quite so far as Carlyle. While they agree in holding that the great man is the sole cause of progress, in the sense that no progress could have taken place without him, Carlyle ignores, as Mallock does not, the fact that, since ordinary men are the tools with which the exceptional man works, the result is conditioned, not only by his capacities, but by theirs. Still, even with this modification, Mallock's position is not perhaps wholly unassailable.

Taking an illustration from the domain of economics, he says that

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the annual *per capita* production of wealth in the United Kingdom 100 years ago was about £14. It is now £35. According to the author, if the entire production 100 years ago be attributed to common or average labor, — although this, he declares, is an absurd concession, — "we shall gain some idea of what the utmost limits of the independent productivity of the ordinary man are." That is to say, there has been no increase in the productive capacity of the ordinary class, and the difference between the £14 and the £35 represents nothing more than the increase in the productive capacity of the few. "The ordinary man's talents, as a producer," he goes on to say, "have not appreciably increased in the course of 2000 years, and have certainly not increased in the past three generations."

But, if there has been practically no increase in the productive talents of the ordinary class during the past 100 years, not to speak of 2000 years, what reason is there, we may ask, for believing that the productive talents of the exceptional class have trebled in the same length of time? As a matter of fact, it is probable that the vast increase of productive energy that has taken place during the last 100 years is not due so much to an increase in the congenital endowment of the few as to a constantly accumulating stock of knowledge and experience, to which the few have no exclusive right and title. Each invention contains within itself the seed of something better, while each generation stands on the shoulders of its predecessor. It is, therefore, unjust to set down all the progress of the past century to the credit of the exceptional class. In fact, Mallock seems at times to have fallen into the very error against which he warns his readers — namely, that of regarding a class of people as perfectly homogeneous instead of as being made up of an infinite number of gradations. Now, it is not to be assumed that society is divided into two well-defined homogeneous classes, the exceptional and the ordinary, and that between the two there is all the difference between progress and stagnation. On the contrary, there is an insensible gradation from the most talented to the least talented. Probably progress would not cease until we reached some homogeneous "submerged tenth." Hence, when the author says that "without the few there could be no more progress than a train of railway carriages could progress in the absence of the locomotive," he must be understood in a relative, rather than an absolute, sense. This will not, however, invalidate the essential principle of his argument.

The application of the foregoing principles occupies a large portion of the book. While applicable to every form of social activity,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

— intellectual, religious, military, political and economic,— the most frequent applications are made in the domain of economics, for the reason that the processes involved in the production and distribution of wealth, though far from being co-extensive with all social progress, are typical of it. Socialism, in particular, comes in for a very large share of attention ; and it is in the keen analysis and arraignment of its proposals that the author is at his best.

Mallock shows conclusively that, since social progress is solely — we should say largely — due to the few, a society or community must supply to its great men the means by which they may exercise their influence and destroy that of the less efficient. There are, however, but two ways in the domain of economics, as he points out, in which the great man can influence the action of others: the slave system and the wage system — the one securing obedience by coercion and the other by inducement. Moreover, these exceptional men would always have to be secured through some form of competition. Again, if men are to enter into this struggle for domination over the masses and develop their powers to the utmost, a community must offer positions, possessions, pleasures and other advantages, which its potentially great men will deem worth working for. Otherwise progress will be checked. But socialism has nothing to give except honor and the pleasures of excelling and of doing good. If these be inadequate to induce men to exercise their powers, — as Mallock has little difficulty in showing that they would be, human nature being what it is, — the whole ideal of socialism is doomed.

Mallock is no pessimist: on the contrary, he believes that the future will bring to the masses a greater command of the comforts and luxuries of life, together with a lightening of the labor necessary to procure them. All this, however, he predicts, will be attained, not by a development in the productive powers of the many, but solely by the talents and activity of an "exceptionally gifted and efficient minority," who will direct the labor of the many to more and more advantage. But while the conditions of all may be bettered, they will never be even approximately equal.

The temperate yet positive tone and clear, lucid style of this volume cannot fail to please. It abounds with plain, practical illustrations ; and, while written so as to be easily within the grasp of the layman, it is at the same time well worth the attention of the scholar.

A. V. Hiester.

Columbia University.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Karl Marx and the Close of His System: A Criticism. By EUGEN V. BÖHM-BAWERK, Austrian Minister of Finance, and Honorary Professor of Political Economy in the University of Vienna. Translated by Alice M. Macdonald, with a preface by James Bonar, M.A., LL.D. New York, The Macmillan Co., 1898. —221 pp.

It would be difficult to estimate this work too highly. It is a model of acute thought and lucid statement. After showing that the chief thesis in the first part of Karl Marx's *Capital* is surrendered — and, indeed, refuted — in the third part, it makes an independent study of certain test passages in the earlier volume and exposes their weaknesses. It ends by a criticism of Dr. Werner Sombart's apology for Marx's economic system, and shows the difficulty of taking a middle position in reference to the essential parts of Marx's teaching.

Central in the theory of Marx is the claim that exchange value identifies itself with labor. This means that goods tend to exchange for each other in ratios that are fixed by the amounts of labor that are "socially necessary" for the production of them. This is not a mere formula of thought, under which a man, if he will, may conceive of the thing termed value without regard to the question whether the actual rates that prevail in the market will accord with the conception or not. Reality is, on the contrary, of the essence of Marx's theory. It claims that commerce respects the labor law of value, and that the prices of goods in the shops actually express, in the main, the amounts of labor that are "congealed" in the several articles. A thing is worth the labor it has cost, not merely in a subtle and scientific sense, but in fact: it will buy another article that embodies the same amount of labor.

Marx has, indeed, noted in his first volume that the varying amounts of capital that coöperate with labor in the making of different goods have an influence on values. Thus, if one unit of labor is combined with ten units of capital in the making of the article A, while one unit of labor is used in connection with only one unit of capital in the making of the article B, then these two things will not exchange for each other in the shops. Competition tends to give equal returns per unit to capital, in its different employments; and with wages also tending toward uniformity, this fact requires that A should sell for more than B. Yet, as they embody the same amount of labor, there seems here to be inconsistency in the theory. Marx claimed that this contradiction was only apparent, and not real; and he promised to remove the difficulty by the third part of his work.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The promise kept alive the faith of disciples; but the attempt to fulfil it has been disastrous. It is now admitted, in the volume recently published, that there is no tendency on the part of the goods A and B to come to an equality of price. The rule of the market calls for different prices for these goods; and the labor theory of value is not the one to which the transactions of the mercantile world conform. If, after this, there is anything left of the original definition of value, what it formulates is merely a conception of value, which we can use only if we are careful to remember, at every point, that it does not correspond with the actual purchasing power of goods.

In Marx's formula what is paid in wages is a part of capital. One article comes into existence by the agency of a large outfit of tools, buildings, materials, *etc.*, and entails a relatively small payment for labor; while another calls for less capital of the auxiliary sort, and for more of the direct wages capital. If, in cases like this, all capital, constant and variable, is rewarded at a uniform rate, the prices of the different goods do not at all correspond to the labor that the production of them entails. If, on the other hand, the prices of the goods conform to the labor that they embody, the capitals are unequally rewarded. From this dilemma there is no escape. Value according to labor only and a uniform rate of gain for capital are irreconcilable conditions.

Marx's reconciliation, as Professor v. Böhm-Bawerk shows, is a surrender. The uniform rate of gain for capital, says Marx, is what competition tends to give; and values that accord with mere labor expended are what it does not tend to give. It does, however, give a total of values that agrees with the sum total of labor expended. It does not make A exchange for B, though each has cost a unit of labor; but it makes the value of the two — on the assumption that these are all the goods that are offered for sale — to be two units of labor. Nothing can exceed in clearness Professor v. Böhm-Bawerk's exposure of the real effect of this long-promised removal of the unremovable difficulty. "All articles, taken together," says Marx, in effect, "sell for the sum of their values; and as some of them regularly sell for more than their values, others sell for less, and the variations cancel each other." What is this cancellation but an abandonment of comparisons and a dealing solely with aggregates? And it is comparisons that were to be accounted for. We were to be told why, by "an overruling law of nature," gold sells for more than iron, and iron for more than cobblestones. Realism is taken out of the Marxian theory of value by the author's recently published

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

volume. There is nothing left of it but a concept that confessedly is not like the fact.

One may, however, think of a value of an imaginary kind that shall consist solely in labor. It will be necessary, then, to invent another term for actual value in exchange. If this be done, it will be possible to estimate the difference between the actual purchasing power of an article and what, in our special nomenclature, is called its value. Werner Sombart's apology for Marx's theory aims to save this fragment from the wreck. The labor that has gone into the making of a thing may be measured, says Sombart, and the quantity of it may be thought of as constituting, in some philosophical sense, the value of the article. One would, of course, always have to be on his guard against imagining that markets respect this standard; but, if he were to do this, he might use the imaginary standard for a theoretical purpose.

Professor v. Böhm-Bawerk shows that this involves changing Marx's actual meaning. It is re-interpreting his statements. Sombart is defending something that is unlike the theory of value which is undoubtedly presented in Marx's first volume. I venture to say, however, that if the earlier part of Marx's work were so changed as to conform to Sombart's interpretation, the whole work would accomplish one important purpose. At bottom it is principally a dialectical way of conceiving and stating things, rather than a presentation of what is objectively true. It is a ponderous argument against interest. It is an attempt, by long and involved thought, to dissociate the product of capital from the capital, and to attach it to labor. An imaginary value, which the market does not respect, may fit the needs of such an argument. A coat that would not have come into existence, if it had not been for tools and materials, as well as effort, may still be thought of as created by empty-handed labor only. If we order a man to make the garment without tools or materials, we shall perceive the unreality of our conception of the relation of labor to products. The coat will not be made. When we speak of things as simply the products of labor, we must know that we are sublimating the theory, but the theory may accomplish something in the sublimated state. Dr. Sombart's bit of salvage — the concept of a kind of value that can exist in imagination — harmonizes with the concept of the labor that is the sole creator of wealth, and that also exists only in imagination. A dialectical but not real formula for measuring values fits a dialectical but not real theory of the origin of wealth.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Here is the bottom of the whole matter; and a point of great interest in connection with Professor v. Böhm-Bawerk's independent criticism of the several test points in the Marxian system is whether he has exposed the fallacy from which all others spring. He has completely proved that the third part of Marx's treatise refutes much of the first. He has further exposed the faultiness of the argument by which Marx sought to prove that labor is the "common factor" in exchangeable goods. He has exposed the fallacy involved in Marx's proof that skilled labor is common labor "condensed." Has he shown that the parent fallacy of all is the denial of the productivity of capital?

The answer to this question would require that we ascertain whether Professor v. Böhm-Bawerk's brilliant theory of interest denies or affirms the productivity of capital. Formally, it controverts all productivity theories; and adherence to it handicaps a critic in stating, in a simple form, the fundamental error of the Marxian system. Professor v. Böhm-Bawerk's theory does not make it impossible to contend against that error; but it puts the critic under a most serious disadvantage. It makes it necessary to think of interest as a premium on present goods, as compared with future goods, and not as a product of capital and as coördinate with the product of labor. It makes it necessary to carry through the argument an elusive conception of the effect of periods of time. It makes it necessary, in refuting Marx's claim that labor is the only producer of wealth, to say what, to the superficial view, seems to mean the same thing, and then to prove that this statement really means the opposite of Marx's.

I must record the opinion that Professor v. Böhm-Bawerk's remorseless dissection of Marx's theory cannot fully expose the original fallacy in it. The criticism is, to be sure, incomparable so far as it goes, and is worth vastly more than many volumes of ordinary controversial literature; but in claiming that capital earns its pay, Professor v. Böhm-Bauerk is forced to do so by an argument that begins by saying in effect, "In the ordinary sense of terms, capital does not produce." A business man would say: "With a unit of capital added to my equipment, I can produce more goods every day. The added capital creates the increment of product. It earns its pay. The day's interest on the capital is the day's product of it." Common thought makes short work of Marx's fundamental fallacy.

JOHN B. CLARK.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The Science of Political Economy. By HENRY GEORGE. New York, Doubleday & McClure Co., 1898. — xxvii, 545 pp.

The regret with which American economists learned of the sudden death of Henry George, on the eve of the last election, was partly mitigated by the announcement that the *Political Economy*, on which he had been at work for six years, was practically completed. It was confidently hoped that the author of *Progress and Poverty*, in going systematically over the whole field of economics, would illumine other portions of the subject with the same trenchant criticism he had applied to the land problem; and that, in the process, his own ideas would gain in breadth what they might lose in simplicity. The present volume, however, realizes in but slight degree these anticipations. In spite of the statement in the preface, that "the work as left was, in the opinion of its author, in its main essentials completed," the book under review is far from being a systematic treatise on political economy. On the other hand, the author's critical faculty has been turned less to elucidating the phenomena of our common economic life than to finding fault with the views of "accredited professors of economics." The simplicity and harmony of "the philosophy of the natural order now spreading over the world under the name of the single tax" are undisturbed: it remains a deductive theory, and no attempt is made to reinforce it by an inductive study of the facts.

A superficial examination of the table of contents leads the reader to expect much more than is to be found in the body of the work. Separate books are devoted to "The Meaning of Political Economy," "The Nature of Wealth," "The Production of Wealth," "The Distribution of Wealth," and "Money — the Medium of Exchange and the Measure of Value." Each one of these books is subdivided into chapters; and it is not until the reader studies the contents of the chapters that he realizes how incomplete the work really is. Thus, while 314 pages are devoted to explaining the "meaning of political economy" and the "nature of wealth," only 152 pages are devoted to "production" and "distribution." In the book on production, some elementary distinctions lead up to the statement that the subject of population was so fully treated in *Progress and Poverty* that it will be omitted. The law of diminishing returns is identified with the proposition that "space has relation to all modes of production," but no attempt is made to discuss the economic significance of this broader generalization. Then, some chapters on the coöperation of labor are introduced which represent little advance over the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

discussion of Adam Smith, and a single page is devoted to explaining "the office of competition in production." The book concludes with chapters on land, labor and capital, each averaging less than two pages in length.

The treatment of distribution is even more fragmentary. After explaining what is meant by it, the author devotes two chapters to proving that natural law obtains in this department of political economy as well as in other parts, and two more to criticising Mill's defense of private property. Here the discussion is broken off. The six chapters on money, which conclude the work, are as elementary as possible, and will be especially disappointing to those reformers who regard an appreciating standard as the root of all evil. Thus, on the whole, instead of being a completed work, George's *Political Economy* is little more than an introduction to the study of the subject. This the author himself must have realized clearly; and it seems unfortunate that it has not been perceived more clearly by the author's friends, who have led the public to look in this volume for so much more than is to be found in it.

The most striking characteristic of the book is the author's unbounded confidence in his own ideas and his contempt for the ideas of other students of economics. The opening sentence informs us that in *Progress and Poverty* he recast political economy. A little later we are told that "this work was the most thorough and exhaustive examination of political economy that had yet been made"; and finally it is described as "the most successful economic work ever published." "Its reasoning," he says, "has never been successfully assailed." This being granted, it follows, as a matter of course, that most of the work of contemporary economists is valueless or worse than valueless. Why, then, have economists so generally refused to avail themselves of the flood of light which *Progress and Poverty* threw upon the problems of their science? Because they are bound down by tradition, and because most of them hold chairs in colleges and universities which are endowed by the classes interested in the continuance of our present property laws. To put it baldly, "whoever accepts a chair of political economy must do so under the implied stipulation that he shall not really find what it is his professional business to look for." With this view of "accredited political economy," the pains which the author has taken to bring together lists of professors and of their writings must seem to his followers wasted effort.

The extent of George's own acquaintance with the literature of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

his subject is illustrated in the following quotations. He knows "of no English writer on the Physiocrats or their doctrines who seems to have understood them." So far as he was able to discover,

> there is not now a prominent college or university anywhere in which the professed teachers of what is reputed to be political economy adhere to what was then [that is, in Mill's time] called the deductive method. . . . It is usually, if not indeed invariably, assumed in all standard economic works that the conversion of labor power through exertion into services or wealth is the only way in which value originates. . . . [And yet] it may now be said that the science of political economy, as founded by Adam Smith and taught authoritatively in 1880, has been utterly abandoned, its teachings being referred to as teachings of "the classical school" of political economy, now obsolete.

Since he found the writings of Marshall "incomprehensible," and the lucid volumes of Böhm-Bawerk "ponderous," this ignorance of what was being taught and thought about him was but inevitable.

With all its limitations, the work is conceived in a philosophic spirit. Starting out with the distinction between mind and matter, the author presents a vivid sketch of some of the conditions which have controlled human evolution. He might have taken some knowledge of philosophy and natural science for granted; but, after all, it was better to include too much rather than too little in a work intended for the general reader. His explanation of the sense in which he uses the term "civilization" and his description of the body economic are both helpful.

The second book is less satisfactory, because here he begins his unfruitful criticisms of the but half-understood theories of others. Impressed with the importance of terms, he devotes a large part of the book to explaining a theory of value which identifies it with the quality of a thing which enables its possessor to secure the means of satisfying his desires without exertion. He sees clearly that the basis of value is subjective; but he does not perceive that it may be explained by reference to utility as logically as by reference to disutility averted, and that both positive and negative considerations must enter into its complete comprehension. In his discussion of wealth he is equally the slave of his own terminology. This must be defined, in his opinion, so as to exclude land; or else that will be called wealth which man has received from nature. Since such a definition breaks with accepted usage, it must be shown that the ordinary conception of wealth, which identifies it with things having value, is a concession to vested interests and is at the root of the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

failure of accredited political economy to condemn private property in land. That wealth itself might be subdivided, so as to mark off the free gifts of nature from the products of human industry and thus to preserve this important scientific distinction, does not seem to have occurred to him.

Throughout, the book abounds in vivid phrases and telling illustrations. Its fragmentary character will prevent it from having a large sale, but it will doubtless have the effect of arousing renewed interest in *Progress and Poverty*, which it in no way displaces.

UNIVERSITY OF PENNSYLVANIA. HENRY R. SEAGER.

System der Nationalökonomie. Dritter Band. Nationalökonomie des Handels und des Verkehrswesens. Von GUSTAV COHN. Stuttgart, Enke, 1898. — 1030 pp.

In the initial number of this QUARTERLY, thirteen years ago, attention was called to the first volume of Professor Cohn's treatise on economics. Four years later appeared the second volume — on the science of finance. After a further interval of nine years we are now confronted by the third volume, devoted to the economics of trade and transportation.

Here the Göttingen professor is on familiar ground, for his reputation was really won over a quarter of a century ago by his masterly series of studies of the railway system and of speculation on the exchanges. To those acquainted with these previous works the present volume, notwithstanding its thousand pages, will not present anything strikingly new. The general arrangement is, indeed, systematic, and the historical chapters in each book are exceedingly interesting and well written. But, as in most works devoted to what the Germans love to call "practical economics," the material is too full for a general systematic treatise, and yet not sufficiently exhaustive for those who wish to study in detail any special point.

The volume is divided into four books. The first, entitled "Trade," deals in general with the development of trade institutions and with the present organization of trade. Under the latter head we have a discussion of trusts. Separate chapters treat of the stock and produce exchanges, as well as of the principles of international trade. This book occupies 546 pages — more than half of the entire volume. The second book, on "Banks," takes up a disproportionately small space — less than 90 pages. The two chapters devoted to the study of the development and the characteristics of modern banking are

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

perhaps the least satisfactory portions of the work. The third book, on "Insurance," is short (60 pages) but suggestive. The final book, on "Transportation," brings the author again to more familiar ground. It contains a most interesting account of the development of means of transportation in general, with a consideration of the economic principles involved, followed by three chapters devoted specifically to "Highways and Canals," "Railways" and "The Post, the Telegraph and the Telephone."

In this volume Professor Cohn has succeeded in maintaining his reputation as the first of German economic essayists. The only other work with which this can be compared is the volume of Roscher on the same subject, and Professor Cohn's book stands the comparison very well. There were, indeed, far less difficult questions of pure theory to be solved in this volume than in the preceding ones; but the criticism — often urged against these earlier volumes — that the author attempts to glide over the difficulties of a question by the brilliancy of his style is not so applicable here. On the contrary, this volume brings to the surface the author's strong points — his thorough acquaintance with literature, his clear method of presentation, his seizing upon the salient facts of practical importance. All this, moreover, is not at any expense of style; for this volume, like its predecessors, stands out prominently in German economic literature as one of the few books that it is easy to read. It may, indeed, be urged that the book would have been equally valuable had its bulk been diminished by half. But students will be none the less grateful to Professor Cohn for having presented what is without doubt the most authoritative discussion of the theory and methods of trade and transportation.

EDWIN R. A. SELIGMAN.

Report of the Special Committee Appointed to Investigate the Relations between Cities and Towns and Street Railway Companies. By CHARLES FRANCIS ADAMS, WILLIAM W. CRAPO and ELIHU B. HAYES, Committee. Boston, State Printers, 1898.— 296 pp.

As is often the case with public documents, the most valuable part of this report is contained in the appendices, where there is accumulated a great mass of useful information about "the relations between cities and towns and street railway companies," both in Europe and in America. The general street railway laws of various states and countries are given either in full or in abstract, and the situation in many cities is described in some detail. Mr. Robert P.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Porter contributes an elaborate argument against municipal ownership, based upon the experience of Great Britain; while the report of Mr. Walter S. Allen, secretary to the committee, gives a general view of the various existing methods of granting franchises and of the various conditions accompanying them, and a brief historical sketch of street railway development in Massachusetts. The report itself is in some respects disappointing: it seems to be a queer mixture of conservatism and radicalism, as if the committee had felt obliged to make concessions in both directions, but had not maturely considered just what concessions could best be made.

The first practical problem discussed by the committee — one which it was especially directed to consider — is the need of legislation to establish a more fixed tenure of franchises. The committee admits the illogical character of the present system of perpetual grants nominally revocable at will, but expresses itself as satisfied with it in operation. It is announced with a naïve air of original discovery that the companies preferred, on the whole, franchises practically permanent. The term-franchise is objected to as "a check on enterprise, and a bar in the way of any development involving the investment of fresh capital"; but, while the committee claims to base this objection upon experience, the only specific instance given is the case of Berlin, where the railway is to revert to the city without compensation. By ignoring the best of the European local transit systems the committee readily forms the opinion that American street railways are far superior to those of Europe, and it assumes throughout that this mechanical superiority is due to no other cause than the open-handed liberality of American legislatures and city councils. The term-franchise is held responsible not only for poor service, but also for dissension, scandals and unhealthy political action! "Wherever there was a term-franchise about to expire," says the committee, "there was strife" — a statement based apparently upon the strivings of the people of Cleveland for better things. The committee seems to forget that the most perfect system of traction in use, even leaving underground railways out of the question, was first introduced in Europe, under a limited franchise of the strictest character; that the overhead-trolley system, for which such unbounded admiration is expressed, would be ill-adapted to the narrow streets of most European cities, whatever may be thought of it in America; and that "unhealthy political action" has been known even in connection with permanent franchise grants.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Of the positive recommendations, the most remarkable is the draft of a bill giving municipalities power either to construct street railway lines or to acquire existing lines by condemnation, but leaving the conduct of the business in all cases in the hands of private corporations. Cities building new lines are left quite free to make their own terms with the operating companies; but when existing lines are acquired, the rental is practically limited to an amount sufficient to cover interest and depreciation. What a city would be apt to gain from such an arrangement, except an increase of indebtedness which the ownership of the tracks would never help it to cancel, the report fails to explain; but the proposal seems to be based upon the theoretical conception of a street railway track as part of the street pavement. For the sake of this passive and unprofitable municipal ownership the committee waives its objection to term-franchises. Although it sees no advantage in limiting the term for which streets with ordinary pavements may be leased, it would limit the leases of these "special pavements," when acquired by condemnation, to seven years, under such conditions that nothing would be gained by the frequent renewals.

Another semi-radical proposition appears in a bill which provides that each company must pay, in addition to the general corporation tax, an amount equal to the excess of its dividends over eight per cent, unless its average dividends shall have fallen below six per cent. A tax based upon dividends might work better in Massachusetts than elsewhere in America, because of the comparatively efficient control of the companies in respect to capitalization; yet the committee itself admits that "in some cases they have been over-capitalized, through questionable processes of financiering." Moreover, it is difficult to see why a corporation which is dependent upon special privileges for the right to do business should be allowed eight per cent, even on the actual investment, before being called upon to pay anything more than is paid by corporations engaged in ordinary competitive undertakings. In other words, a progressive tax beginning with moderate rates would be better and less arbitrary than a uniform tax of fifty per cent with an excessive exemption; and gross receipts, or net earnings carefully defined and under an efficient system of control, would be a more satisfactory basis of taxation than dividends.

Curiously enough, the committee itself proposes a progressive charge, based upon gross receipts per mile — but a charge of such a nature that it would be difficult to justify the progression, or even the basis. The committee proposes to commute the obligation of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the companies to pave and repair portions of the streets and to remove snow and ice into money payments "equal to the cost of the work." The obvious basis for such a commutation is mileage, with a simple distinction between city streets and country roads where no paving is required; but, instead of this, the committee recommends a charge of from two to three per cent of the gross receipts. The commutation of the paving obligation and a progressive tax on receipts are both good suggestions, considered separately, but they lose much of their strength by being thus identified.

With regard to the reduction of fares by the board of railroad commissioners, the committee proposes to repeal the provision that fares shall not be so reduced as to yield less than ten per cent on the investment, and to provide instead that they shall not be reduced below the average rate charged for similar service by other companies, under substantially similar conditions. The existing criterion is objected to, for the very good reason that too high fares may themselves keep the profits down; yet it is doubtful whether the criterion proposed, which the report says is already in practical use, is a very great improvement. It might make it difficult to begin reductions from the generally prevailing rate, however justifiable they might be in certain cities. The committee evidently has in mind only the reduction of exceptionally high fares on co[illegible] lines, and not reductions below the usual five-cent rate in [illegible]. Indeed, while the importance of street railways as a means of spreading out city populations is not altogether overlooked, little interest is shown in the movement for lower fares. There is no discussion of the subject except in a few scattering sentences, the committee apparently believing, as a general proposition, what it says of Chicago, that "the only demand for a lower rate of fare comes from the socialists."

As to matters of less general interest, the committee recommends that taxes paid by street railway companies be distributed among the towns and cities in proportion to the mileage in each, as proposed by the Boston Rapid Transit Commission of 1891 and the Joint Special Committee on Taxation which reported in 1894, instead of according to the ownership of stock; that the right of local authorities to impose conditions in granting locations be expressly recognized, but restricted as regards extensions of the conditions of the original grants; that power to review grants protested against by owners of abutting property, and to review revocations, be vested in the board of railroad commissioners; that the giving of free tickets to munici-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

pal officials or reduced rates to any one except school children be made a sufficient ground for the revocation of the franchise; and that when the widening of streets is made necessary by the construction of a street railway, the company be required to bear part of the expense.

The committee's statistical method is peculiar. In order to show that the average rates of profit and dividends are not excessive in Massachusetts, the committee excludes from its calculation the principal street-railway system of the state, representing nearly half the total capital and more than half the earnings and dividends, and even neglects to state its financial condition separately. The statistics relating to dividends given by the committee for 1897 belong to the year 1895–96 — a poor year; while the figures given for net earnings really represent only net earnings from operation.

MAX WEST.

WASHINGTON, D. C.

Workingmen's Insurance. By W. F. WILLOUGHBY. New York and Boston, T. Y. Crowell & Co., 1898. — 386 pp.

There is singularly little with which even the captious critic could find grave fault in this admirable study by Mr. Willoughby. No one has yet put the entire experience of "labor insurance" in a form so accessible and so intelligible. The earlier attempts to meet the problem in different countries by voluntary associations are brought out in clear relief. The practical limitations of the voluntary method are fairly stated, without any dangerous conclusions that compulsion has finally and necessarily won the field. One sees as a *fact* that compulsion gains step by step in every European country. If it comes to be admitted that the working classes ought to be insured, — especially those who obviously most need insurance, — it appears impossible, after full discussion, to avoid the conclusion that compulsion is a necessity. Nothing is better in Mr. Willoughby's study than his treatment of this vexed point. We have the French and Belgian experience of employers in *la grande industrie* so pitted against the results of compulsion, as in Germany and Austria, that the student is forced to recognize that the final method is not yet definitely settled. It is seen that the voluntary system is susceptible of improvements which may give it far larger scope than was thought possible even seven or eight years ago. In whatever ratio, however, compulsion and free activities are eventually to stand, it is certain that the state must play an ever-increasing rôle along the lines of regulation and enforced publicity.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The book contains much excellent work in its distinctions between the three forms of insurance — covering respectively sickness, accident and old age. We are shown why the sick should be under a narrower and more local control; why accidents should be paid for by the employer, and the cost thrown wholly upon the industry; why old-age pensions constitute, in their deferred payments, a wholly different problem.

Just as valuable is the plain speaking about the palpable defects in the insurance of railroad employees on some of our American lines. One need not blame the officials for desiring to bind their laborers, so that all forms of disturbing revolt shall be kept in abeyance. This is a fair move in the game, though it would, perhaps, be better to make somewhat less of philanthropic motives. When, however, this process takes the form of insurance, under which the wage-earner forfeits his payments if he goes elsewhere, it is plainly vicious and should be subjected to the severest public criticism.

Both the matter and the spirit of this volume will do good service in the United States in furthering and enlightening the discussion of labor insurance, to which we shall sooner or later be driven.

ZERMATT. JOHN GRAHAM BROOKS.

Studies in Currency, 1898. By T. H. FARRER. London, Macmillan & Co., 1898. — xxiii, 415 pp.

In this volume Lord Farrer has collected some fourteen essays on currency topics, which he has contributed to various publications during the last ten years. Seven of the shorter articles have appeared in the series of pamphlets issued by the Gold Standard Defence Association; and these, necessarily rather controversial in tone, have the defects as well as the virtues of the series, for they are short, popular in style and rather dogmatic. Four of the papers were written for, or are extracts from the reports of, Parliamentary commissions; while the remaining three appeared in newspapers or reviews. The majority of the essays were plainly called forth by the bimetallic controversy; and accordingly considerable space is devoted to the India silver problem, and to other subjects which have formed the basis of recent English monetary discussions.

The most thoughtful as well as the longest essay, entitled "What do we pay with? or Gold, Credit and Prices," was originally written in 1888 for the use of the Gold and Silver Commission. Closely connected with this are the two following papers on "The Quantitative Theory of Money," and "Bimetallism and the Foreign

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Exchanges." The underlying problem in all three essays is to decide whether there is any quantitative relation between gold and exchangeable commodities or, assuming a general fall in prices and a deficiency in the supply of gold, whether the fall in prices has been caused by the scarcity of gold. A decided negative is Lord Farrer's answer. As this idea runs through all the articles and furnishes the basis for most of the conclusions, we shall review only these essays, which constitute about one-fourth of the entire volume.

Lord Farrer's argument is that "money" consists not only of coin, but also of all forms of credit (pp. 6, 72, 180); and as almost all (98%!) of the commercial transactions of advanced nations are carried on by means of credit (pp. 75, 181), the quantity of metallic money in use cannot greatly affect prices. "The only known connection between the quantity of gold and prices" (p. 137) lies in the ultimate possibility of a demand for the redemption of these credit instruments in gold. For this purpose some reserves of gold must be kept, but these bear an ever-decreasing proportion to credit, which is the real medium of exchange (p. 136). Credit regulates prices, and credit is "limited by the debtors' solvency" and depends "only secondarily and in a very subordinate degree upon the supply of gold" (p. 167). The liability to pay in gold is merely a test of solvency that "is rarely, if ever, actually supplied" (p. 165). And this is true, according to Lord Farrer, not only of the transactions within a single country, but also, and increasingly so, of international exchanges. These are settled by the transfer of securities from one country to another, or by book transfers of credit in international banking houses, *etc.*

However great the development in this direction may have been in recent years, there does not seem to be any reason for believing that the payment of international balances by means of gold can ever be dispensed with. In fact, with every extension in the use of credit, gold will become more necessary as a regulator of credit currency and credit prices. Accepting Lord Farrer's contention that credit is the regulator of prices, an excessive increase of credit money would raise prices, cause increased imports and bring about an unfavorable balance of trade. This would normally cause a drain of gold, which could not be permanently stopped by transfers of stocks or securities, *i.e.* credit. Indeed, the greater the resort to credit in any country, the more needful would such a drain be in order to show that prices were unduly high and to put an end to the expansion. Ultimately it would be inevitable.

Underlying this argument we find a confusion which runs through

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the whole book — the extension of the idea of a universally accepted medium of exchange, *i.e.* gold, to the locally current substitutes therefor, which are in effect promises to pay gold. Credit money cannot multiply indefinitely without reference to the quantity of gold in a country; and Lord Farrer is, therefore, not entirely correct when he says that the reserves have "little or no relation to the quantity of credit which is said to be, and, in one sense is, based upon them" (p. 166). Still less defensible is the statement that "this gold need not be in the till of the banker; it need not be in the pocket of the creditor. It need not even be in the country of either, provided that there exist the means of procuring it. For the sake of convenience a certain quantity of it is kept in the reserves of the bankers" (p. 165). That is just the point. This reserve of gold, on which credit is based, *must* be kept on hand, as a guaranty of solvency, not only by banks but by individuals also. It is not even sufficient to possess the means of procuring it: the gold itself must be immediately available.

Conclusions upon such subjects, where there is so great a lack of accurate statistical data, must be to some extent matters of opinion and held subject to revision, but correct views can be obtained only when proper distinction is made between the functions of metallic money and of credit as media of exchange. The effect of the views set forth in this volume upon the question of bimetallism and other currency problems is, of course, obvious, and there is no uncertainty as to the author's attitude. Lord Farrer has served on the Gold and Silver Commission of 1888 and on Lord Herschel's Indian Currency Committee in 1893, and is well known as a staunch monometallist. This latest volume of his will doubtless prove a formidable weapon in the arsenal of American adherents of the gold standard.

INDIANA UNIVERSITY. E. L. BOGART.

Report of the Monetary Commission of the Indianapolis Convention of boards of trade, chambers of commerce, commercial clubs and other similar bodies of the United States. By J. LAURENCE LAUGHLIN. Chicago, The University of Chicago Press, 1898. — xv, 608 pp.

The first part of this document is devoted to the history of the Indianapolis Monetary Convention and of the action taken on its initiative, together with the preliminary report of the Monetary Commission and the bill, embodying their views, which was introduced into the House of Representatives in January, 1898. The newer

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

portion, or the final report proper, consists of three parts, entitled "Metallic Money," "Banking" and "Demand Obligations of the Government." The appendices contain a selection of the laws of the United States relating to coinage, currency and banking, and a collection of statistics of banking and money; and there are also numerous charts and diagrams, as well as a full and careful index.

It is in this final report that Professor Laughlin and his assistants have presented the case for the Monetary Commission's scheme of banking and currency reform in an elaborate argument, to which history, dogma and criticism, theory and practice have each contributed a share. The least pertinent of any chapters, probably, are in the third part, and these deal with the effect of inconvertible paper issues on wages, prices and the cost of the Civil War. The accounts of the United States silver experiment, the national banking system and the United States notes are useful historical sketches, and provide the basis, in many cases, of the arguments for radical change. Some of the theoretical passages are more likely to provoke objection. But criticism will be concerned with the nature of the dogma adopted rather than with the inclusion of the topic to which it relates; and, after all, such dicta as "value is a ratio" (p. 78), "the inefficient or short-sighted person, who fails to take the risks of industry and contracts into account, has no ground of appeal to the government for assistance" (p. 103), or "there is no special or peculiar danger in the issue of notes, not existing in the case of deposits" (p. 181), can neither make nor break the argument for a project of monetary reform. That the report should cover ground which had already been thoroughly worked was only to be expected. Both the plan itself and the present effort to justify it can lay a better claim to comprehensiveness than to originality in point of detail. Not a little has been borrowed from *Sound Currency* and general economic journals; and there is more or less drawn from other contributions to the currency controversy — from sources, too, which the compilers have sometimes omitted to cite.

Taken as a whole, the final report presents an array of considerations in support of the Indianapolis plan, which are far weightier and more nearly convincing than the explanations accompanying it when first published. Particularly satisfactory are those parts of the argument upon the practical aspects of the plan, as distinguished from the principles underlying it, in which the mechanism of redemption and the ultimate adequacy of the safety fund are discussed. It is not too much to say that the present document is strongest here,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

where the preliminary report was astonishingly weak. In the light of the recent explanation, the proposed system of redemption seems likely to be both easy and cheap: easy, because of the wide distribution of the sub-treasuries charged with its operation; cheap, because not more than half of the expense will be assessed on the bank which demands redemption. In no case will the presenter be obliged to pay more than one-tenth per cent (by way of express charges) on the value of paper actually redeemed. Under these circumstances, therefore, there is an excellent prospect that the competitive return of bank notes to their source will be prompt and persistent; that the bank note circulation will possess the elasticity which only a daily adjustment to business needs can give; and that other features of the scheme, dependent for their success upon the presence of elasticity in the currency, will work as the Commission meant that they should. The discussion of convertibility is much strengthened by a chapter on the "Movement of Gold," from material furnished by Mr. A. D. Noyes. The contention that the bank note guaranty fund will be ample provision for the ultimate payment of the paper of failed banks, without subjecting the contributories to excessive contingent liability, is supported by the most extended and skillful manipulation of failed bank returns which has hitherto appeared.

The measures by which the transition from the present system is to be accomplished are dismissed, as a rule, with scant attention. It is not made clear, for example, that the suggested changes would soon bring the Treasury that relief from demands for gold for export purposes, which was indicated in the preliminary report as an object of special concern to the Commission. Another peculiarity of the longer document is the attitude assumed by the editor towards the failure of the existing organization of credit "to secure such a distribution of the loanable capital of the country, as will tend to equalize the rates of interest in all its parts." No fault need be found, it is true, with the reasons urged in favor of branch banking and issue against general assets, so far as they go; or with the ingenious arithmetical proof of the familiar theorem that issue on bond security actually diminishes the discounting power which a bank could exert, were its engagements as acceptable to its customers in the form of book credits as in the form of notes. But chief emphasis is placed upon the latter consequence of the present bank act and upon the high minimum of required capital, as the causes of the exorbitant price of loans in many communities of the United States. Both prevent the establishment of banks of issue in the "very smallest towns

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and villages." Compared with the dearth in such communities, the scarcity of loanable capital in other markets seems to be thought of small importance. As Professor Laughlin argues, "it is in the places wholly debarred from banking facilities of any sort, through inability to make use of deposits, that the need is greatest" (p. 383).

Whether the opinion thus expressed is correct depends upon what is meant by "great." It might be accepted, perhaps, if their intensity alone, and not the expenditure necessary to satisfy them, were to govern our estimate of popular needs. Judging by the former principle, however, there would be a greater deficiency of banking facilities when six borrowers were forced to pay fifteen, than when sixty had to pay ten per cent. The doctrine would also oblige us to ignore, as the report does ignore, the situation in larger centres of population. There are many cities of the South and the West — cities numbering 25,000 inhabitants and upwards, cities in which neither local banks nor considerable supplies of deposit currency are lacking — where discount rates of seven to ten per cent, on first-class commercial paper, are the usual quotations, while borrowers in the larger markets of the East are enjoying rates ranging, in many cases, between three and four and a half per cent. So one-sided a discussion of the need for branch banking, so incomplete a perception of the benefits to which it will conduce, might well suggest views upon the distribution of loanable capital in the United States more nearly akin to hasty preconception than to thorough knowledge of the facts.

NEW YORK. R. M. BRECKENRIDGE.

La Bancarotta: Esposizione teorico-pratica e contributo per una riforma legislativa. Un volume della Collezione Studi giuridici e politici. Di SILVIO LONGHI. Milano, Ulrico Hoepli, 1898. — 363 pp.

The object of this monograph is to propose certain reforms in bankruptcy, as regulated by the Italian Commercial Code of 1882. In his introduction, after a brief critical review of the existing Italian legislation upon bankruptcy, the author states the two problems — one legal, the other economic — for which he is seeking solutions. His method is historical and comparative, as well as critical. In the historical part of his introduction he traces the origin and evolution of bankruptcy from the Roman period, down through the Middle Ages, to European legislation prior to the French Revolution. The introduction concludes with a very brief comparative sketch of European legislation since the French Revolution, which he classifies into three

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

groups — the French or Latin, the Germanic and the English or Anglo-Saxon. In the body of his work the author elaborates and formulates the principles for which he is contending. These he summarizes on pages 294 and 295, and then gives a project of law which he would substitute for those sections of the Code of Commerce treating of the same subject. An appendix to the work contains a literal translation into Italian of those portions of contemporary European legislation that bear on the questions under discussion. Finally, not the least valuable feature of the monograph is a very exhaustive and systematic table of contents.

The two principal reforms to the present Italian bankrupt law proposed by the author are: first, the reclassification of the offenses of a bankrupt, in accordance with the principles of modern criminal law; and, second, the extension of its provisions to non-traders. While these are burning questions on the Continent, in the United States they are of but slight interest to either the jurist or the lawmaker. The first has little or no application to English and American law, where the bankrupt has ceased to be regarded as a criminal, while the second was thoroughly debated and settled many years ago.

As regards the first question, the laws of the continental countries differ radically from English and American law. The former recognize two kinds of bankruptcy — fraudulent and simple; and the bankrupt is placed in one or the other category according to the acts he has committed. The classification is rather arbitrary, and is based on the greater or less importance of the acts and the penalties attached to them. The author would have offenses of bankruptcy classified according to ideas now prevailing, distinguishing acts of commission from those of omission and subdividing the former into fraudulent and culpable, making the concept of fraudulent bankruptcy correspond to that of *reato doloso*, and that of simple bankruptcy to that of *reato colposo;* or, in other words, embracing in the first only acts of fraudulent intent and in the second acts of negligence. The American ideas upon bankruptcy legislation have long since evolved from that primitive stage in which bankruptcy is regarded as a crime. The bankrupt law is entirely separate and distinct from the penal code. While the misconduct of the debtor will be a ground for refusing him a discharge, the present law prescribes penalties for but two offenses on the part of the debtor — namely, concealing property from the trustee and committing perjury during the proceedings.

As regards the second question raised by the author — the extension of bankruptcy to non-traders — the Latin countries of Europe,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

with the exception of Spain, limit the application of bankrupt laws to commercial debtors exclusively, while the Germanic and Anglo-Saxon countries extend it to all citizens. In Italy the desirability of assimilating all debtors in the bankruptcy system has been much agitated among students and theorists, although the proposition was rejected by the framers of the new code in 1882. From the continental standpoint, bankrupt laws are intended to prevent a debtor from disposing of his property in fraud of his creditors and to secure an equitable distribution of his assets among his creditors; and it is with this purpose in view that the application of these laws to the civil as well as to the commercial insolvent is demanded. In the United States, on the other hand, this question has been worked out from quite a different point of view. By English and American law, an honest bankrupt who has surrendered his property is discharged from the unpaid residue of his debts. Originally, this privilege was extended only to traders, the reason being that the creditors of a trader were regarded as, to some extent, partners in his speculations, while the non-trader was alone responsible for his insolvency. By the act of 1841, in the United States, voluntary bankruptcy was made applicable to non-traders as well as traders, at their request and for their benefit, while the involuntary clause applied only to traders; but, experience having shown that, to prevent non-traders who had been guilty of frauds from obtaining discharges, it was necessary to make the involuntary clause apply to them, this was done by the act of 1867 and again by the act of 1898. The question of the application of bankrupt laws to non-traders as well as traders may be regarded as settled in this country.

NEW YORK CITY. S. WHITNEY DUNSCOMB, JR.

Municipal History and Present Organization of the City of Chicago. By SAMUEL EDWIN SPARLING, Ph.D. Madison, Wis., Bulletin of the University of Wisconsin, No. 23, 1898. — 188 pp.

Most western cities differ from those on the Atlantic seaboard in having institutions that are nearly free from the anomalies which characterize those of eastern cities. This is probably due to the fact that in their early development the eastern cities closely followed European institutions, while the political institutions of the western cities were more often of spontaneous growth. The municipal history of Chicago is a striking illustration. The first city charter was drafted at a meeting of citizens and closely resembled the town government under which they had lived for four years. Certain minor changes were made,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

owing to the needs of the rapidly increasing population; but the great similarity proves that the city was regarded as merely a large town, which ought to take a position in the scheme of local government as nearly as possible like that of the town. The city had a government, therefore, in which the council was the most important factor.

Attempts were soon made, however, to differentiate the executive from the legislative functions, and since 1837 this movement has been marked. Starting with scarcely more influence than that which belongs to a presiding officer, the mayor has become the most powerful individual in the city government. The powers of the council, however, were not decreased as the mayor's influence increased, except so far as administrative functions were concerned. When the growth of the city demanded greater municipal activities, additional powers were conferred upon the council, and it was not relegated to the inferior position which it frequently occupies in other American cities. Its control of the finances gives it considerable control over the administration, but in practice the independence of the mayor is preserved.

The state legislature has encroached to some extent upon the sphere of the council; but, as compared with other American cities, the amount of special legislation has been very small, although Dr. Sparling does not think so. (See pages 23, 40 and 160.) The student of European municipal government, examining for the first time the government of Chicago, might conclude that legislative interference has been very great; and he would be quite right, if he made comparisons with foreign conditions only. But one familiar with American conditions would hardly come to that conclusion. In the sixty years that Chicago has been incorporated, there have been passed upwards of 140 acts affecting the city government, including many of a general character which do not apply to Chicago alone.[1] As compared with other American cities, therefore, Chicago has been peculiarly exempt from special legislation. One needs but to consult the report of the Fassett Committee (New York, 1891) and Wilcox's *Municipal Government in Michigan and Ohio*, to substantiate fully this criticism of Dr. Sparling's conclusions.

Chicago's experience with independent municipal boards, whose duties are chiefly of an administrative character, is much the same as that of other cities. From 1850 to 1870 nearly every department was organized upon this plan; but the results were so disastrous as to seal their doom. Since the adoption of the present city charter in 1875, only a few of these boards have remained; and these are

[1] See Appendix to Dr. Sparling's monograph, where these figures are given.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

confined to cases where their functions are chiefly of a deliberative character. This movement seems to have been but part and parcel of the democratic movement which swept over state and national politics about the middle of the century, and apparently left its impress in Chicago, as elsewhere, in the large number of elective offices created.

To the present organization of the city government about two-thirds of the monograph is devoted. Although the actual administration does not seem to be superior to that of other cities in form, the charter of Chicago presents more nearly than that of any other American city the proper scheme of government.

Unfortunately, Dr. Sparling's monograph contains such an exceedingly large number of errors in grammar and orthography as to impair its value. He also fails to show the relation between cause and effect, and traces inefficiency to defects in the form of government, without considering other factors. For instance, in speaking of the excellent park system, Dr. Sparling declares: "The result has been a splendid tribute to the board type of organization for this particular phase of local administration" (p. 150). Perhaps the board system is suited to this field of municipal activity, but mention should be made principally of the lack of favoritism in actual administration, which is due to public opinion and the *esprit du corps* which pervades every department. Remove these factors, which do not owe their existence to the board system, and the Chicago parks will be no better cared for than are the streets. All in all, the monograph by Dr. Sparling is a fairly creditable piece of work.

NEW YORK CITY. MILO ROY MALTBIE.

The History of English Democratic Ideas in the Seventeenth Century. By G. P. GOOCH. Cambridge, The University Press, 1898. — 363 pp.

This essay received the Thirlwall Prize at Cambridge in 1897, has been revised and expanded by the author, and now appears as the tenth volume of the *Cambridge Historical Essays*. As the preceding number of this series discussed the doctrine of the divine right of kings, Mr. Gooch restricts himself to the consideration of democratic ideas. Their development he carefully traces, on the one hand, through the movements of the various political groups or parties and, on the other, through the political writings causing or caused by the political changes.

By a brief consideration of the political significance of the Refor-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

mation and a review of the resulting theory the author's introduction leads up to his main topic. Chapter I is given up to the growth of democracy in England before the seventeenth century, and the second chapter to English democratic thought down to 1640. The greater part of the essay is, however, taken up by the treatment of the period from 1640 to 1660. Not less than two-thirds of the book is devoted to these two decades — a policy that is fully justified by the "nature and quality of the ideas which then made their appearance."

In these twenty years Mr. Gooch has, in fact, a field so extensive and so diversified as to make it impossible for him to do more than sketch in scanty outline its most striking features; but he uses his space well and sets forth quite clearly the ideas of the various groups that participated in the democratic movement. The genesis of republicanism, the opinions of the army, the establishment of the commonwealth, the theory of the oligarchy and the theory hostile thereto, constitute the principal points in the discussion. Considerable attention is given to the relation between the religious and the political ideas and development of the time. The various religious bodies — Presbyterians, Independents, Baptists, Quakers, Millenarians and Antinomians — are examined, their theories are analyzed and their influence is weighed. The extremist doctrines of the time are also accorded some notice; the radical Levellers, the Communists and even the Diggers find a place. Mr. Gooch has not stated his conception of democracy and his understanding of the term "democratic ideas"; but if we are to impute to democracy such notions as those of the Diggers and of the radical Quakers and the Antinomians, we shall be forced to hold it responsible for a rather unruly family. From one point of view, these theories are no more democratic than aristocratic or monarchic. They are not theories of government at all; but rather theories of unrestrained individualism or, in a word, of anarchy. For the appearance of these ideas democratic theory was responsible only so far as it fostered the spirit of revolution and broke those bonds of established authority which cannot be destroyed without throwing some minds out of equilibrium.

Mr. Gooch gives especial attention to Selden, Milton, Ireton, Cromwell and Harrington, whose political ideas are discussed as fully as the limits of the work will allow. The author alludes to Milton's distrust of the masses of the people and declares that "the voice of the people was as far from sounding to Milton like the voice of God as to Metternich." Strong emphasis is laid upon Harrington's *Oceana*,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

because of the practical character of the work and the employment of the historical method. Mr. Gooch maintains that, in respect to the method pursued, *Oceana* ranks with Machiavelli's *Discorsi* and Bodin's *République*. To the period from 1660 to the close of the century but one chapter is allotted, and the theories current during these forty years receive but scanty treatment. Even Locke's work is dismissed with a three-page outline.

Generous notice is accorded to the course of democratic theory in America, in its relation to the English development. Sometimes, however, the author is more appreciative than accurate. For example, the government of Plymouth did not rest upon the suffrage of "all male inhabitants of full age" (p. 77), but was vested in the freemen of the company. Roger Williams can hardly be accused of inconsistency in securing a patent from England, after having denied the validity of the Massachusetts Bay patent, since he had already purchased his land from the Indians. The work of John Adams, to which reference is made on page 356, was not a "Defence of the Constitution of the United States": it was entitled *Defence of the Constitutions of Government of the United States.*

On the whole, Mr. Gooch's work will be welcomed by those interested in the development of political theory. He has taken great pains to place in the clearest light the widely divergent tendencies of the seventeeth century; and he has given us something more than a review of the political literature of the time, for he has illuminated his study of democratic theory by the consideration of the historical facts that conditioned the theory. The essay is suggestive and stimulating, and its value is increased by references that facilitate further and more minute investigation of the topics treated.

C. E. MERRIAM, JR.

COLUMBIA UNIVERSITY.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

RECORD OF POLITICAL EVENTS.

[From May 11 to November 10, 1898.]

I. THE UNITED STATES.

THE WAR WITH SPAIN. — **The campaign in the Philippines,** opened by the victory of Manila Bay, was at first actively prosecuted only by the native insurgents, while Rear-Admiral Dewey (advanced to this rank May 11) maintained a blockade of the harbor. The insurgents received arms from the captured arsenal at Cavité; their forces were organized by Aguinaldo, a leader in the preceding insurrection, who had been brought from Hongkong on an American dispatch boat; and by the end of June they had driven the Spanish troops into the city of Manila. Meanwhile an expeditionary force of 20,000 men was collected at San Francisco and placed under the command of Major-General Merritt. The first expedition reached Manila under convoy of the cruiser *Charleston* at the end of June. On the way the Americans seized the island of Guam, one of the Ladrones. By the end of July there were before Manila nearly 11,000 American soldiers, of whom about 2500 were regulars; and on August 7 Admiral Dewey and General Merritt demanded **the surrender of the city of Manila.** On the 13th (the day following the signing of the peace protocol at Washington) a joint attack was made by the fleet and the army; the outer defenses, after a short bombardment, were carried by the Americans without serious resistance; and the garrison of 13,000 men capitulated. — The army at Manila remained unexpectedly free from disease until October, when malaria, typhoid and smallpox became prevalent and the sick list rose to ten or twelve per cent. — **The naval operations in the Antilles** — at first restricted to the maintenance of the blockade, the capture of Spanish merchantmen and of blockade runners, the reconnoissance of harbors, the destruction of shore batteries and the cutting of cables — received a more important object by the arrival of Admiral Cervera's squadron, which passed Martinique May 12 and entered the harbor of Santiago de Cuba on the 19th. Acting Rear-Admiral Sampson's squadron, which had returned from Porto Rico after an ineffective bombardment of San Juan (May 12), and Commodore Schley's squadron, which was dispatched from Hampton Roads on the 13th, effected a junction at Key West on the 18th; separated to search for the Spanish vessels; and met again off Santiago June 1, where Schley had already established a blockade. Pending the arrival of American troops the Cuban insurgents, commanded by General Garcia, were supplied with arms, ammunition and food; and the harbor of Guantanamo, thirty-three miles east of Santiago, was seized and held by a force of 600

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

marines, supported by Cubans. — **The military expedition against Santiago**, consisting of 14,000 regulars and 2500 volunteers and commanded by Major-General Shafter, left Tampa June 14. On the 22d the troops were landed without opposition at Daiquiri, an open roadstead seventeen miles east of Santiago. Forcing their way through a hilly country, heavily wooded for the most part and covered with dense tropical undergrowth, the Americans drove in the enemy's outposts at La Quasima on the 24th ; and on July 1 they carried by assault, without adequate artillery support and in the face of an obstinate resistance, the trenches and forts on the heights of Caney and San Juan. On this and the following day, when they pushed their lines further forward and repelled a Spanish attack, the Americans lost 103 officers and 1492 men killed or wounded. On the morning of the 3d **Admiral Cervera's squadron was destroyed** in an attempt to escape to the westward. The Spaniards lost all their vessels, — four armored cruisers and two destroyers, — about 600 men killed and drowned, and more than 1700 prisoners, many of whom were wounded. On the American fleet one man was killed and one was wounded. — On the same day General Shafter demanded the surrender of the city ; but the garrison received reinforcements and the demand was refused. After 18,000 women, children and foreigners had been taken through the American lines, the city was bombarded from land and from sea. Meanwhile the besieging force had been raised to 21,000, and its lines had been so extended as to surround the city. Negotiations were reopened on the 12th and resulted, five days later, in **the surrender of Santiago**. The capitulation covered not only the city with its garrison of 12,000, but also the greater part of the province, with garrisons amounting to another 12,000. — During this campaign the relations between the American and the Cuban soldiers became increasingly unfriendly ; and at its close General Garcia, who had been ignored in the negotiations that preceded the surrender and whose followers were excluded from the captured city, protested and withdrew to prosecute an independent campaign. — In the articles of surrender it was promised, on the part of the United States, that the Spanish officers and regulars should be transported to their own country. The government at Washington at once called for bids ; the contract was awarded July 20 to the Spanish Trans-Atlantic Company ; and the embarkation of the Spanish troops began a few days before the signing of the peace protocol. — The removal of the victorious Americans began even sooner. The toil and privations of this campaign had rendered the soldiers peculiarly subject to the diseases of the tropics. At the time of the surrender the army was seriously weakened by malarial fever, and dysentery and yellow fever had made their appearance. By the end of July three-fourths of the men were or had been ill with fever. On August 3 orders were issued for the removal of a portion of the troops ; and before the end of the month the entire corps was transported to a hastily constructed camp at Montauk, Long Island. — Of the regiments (chiefly colored) sent out to

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

take their place, two-thirds had been recruited as "immunes." Early in September yellow fever appeared (first among the "immunes"), and by the end of the month at least one-eighth of the fresh troops were on the sick list with fever, dysentery, *etc.* — In July miscellaneous naval operations of the sort described above took a wider range; for on June 28 the blockade, originally limited to a portion of the northern coast of Cuba, was extended to the southern coast, from Cape Francis to Cape Cruz, and to San Juan, Porto Rico. — **The invasion of Porto Rico** began shortly after the capitulation of Santiago. On July 21 Major-General Miles, commander-in-chief of the American army, sailed from Guantanamo Bay for Porto Rico with 3400 men who had been brought to reinforce General Shafter; and at nearly the same time expeditions of equal or greater strength were sent from Tampa, Charleston and Newport News. During the last week of July about 16,000 men, chiefly volunteers, were landed on the southern coast of Porto Rico; and on August 13, when news was received of the cessation of hostilities, the American troops had occupied, without meeting serious resistance, the southern and western portions of the island. They were everywhere received by the inhabitants with unexpected enthusiasm. — One month after the termination of hostilities nearly 1900 of the 12,000 men left in the island for garrison duty were reported sick with typhoid, malaria, dysentery and other diseases, and later reports showed even a larger number of cases. — **An attempt to relieve Manila** was made in the early summer. A Spanish squadron and a troop-ship with 2000 soldiers passed through the Straits of Gibraltar June 17, and through the Suez Canal July 5. On June 27 the Navy Department at Washington announced the formation of a squadron which was to proceed at once to the coasts of Spain. This threat or, more probably, the news of the destruction of the Spanish fleet at Santiago caused the Spanish government to recall the expedition, which accordingly passed back through the canal July 8.

PEACE NEGOTIATIONS. — The demonstrated superiority of American sea power had sealed the fate of the Spanish colonies, and on July 26 overtures for peace were made at Washington through the French ambassador, M. Cambon. On August 12 the Secretary of State of the United States and the French ambassador as plenipotentiary for Spain signed **the Washington protocol.** This treaty provided that Spain should relinquish its sovereignty over Cuba and should cede to the United States Porto Rico and the other Spanish islands in the West Indies, and also an island in the Ladrones to be selected by the United States. To arrange and execute the details of the evacuation of the West Indian islands, commissioners were to be appointed to meet not later than September 12 at Havana and at San Juan. Pending the conclusion of a treaty of peace which should determine the control, disposition and government of the Philippines, the United States was to hold the city, harbor and bay of Manila. Commissioners to negotiate and conclude a peace were to meet in Paris not later than October 1. — The commissioners required by the treaty were

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

promptly appointed by both governments. The Cuban commission consisted of Major-General Wade, Rear-Admiral Sampson (promoted to this rank after the battle of Santiago) and Major-General Butler, representing the United States; and of Major-General Parrado, Rear-Admiral Pastor and Marquis Montoro, representing Spain. Of the Porto-Rican commission the American members were Major-General Brooke, Rear-Admiral Schley (also promoted after the battle of Santiago) and Brigadier-General Gordon; and the Spanish members were Major-General Ortega, Commodore Vallarino and Judge-Advocate Sanchez del Aguila. The peace commission was made up by the appointment, on the part of the United States, of Secretary of State Day, Senators Davis, Frye and Gray and Mr. Whitelaw Reid; on the part of Spain, of Señor Montero Rios (president of the Senate), Senator Abarzuza (former ambassador at Paris), General Cerero, Señor de la Villa Urrutia (minister at Brussels) and Señor Garnica (counsellor to the Court of Cassation). — The Porto-Rican commission completed its work October 18, when the representatives of the United States took control of the government. Five days later the last detachment of Spanish troops left the island. — The Cuban commission found its task less simple. The Spanish representatives declared that it would be impossible to remove 120,000 men before the end of February. The Americans at first demanded evacuation, or at least surrender of control, by December 1; but later they extended the term to the end of December. — The peace commissioners, who at the close of this RECORD were still in session at Paris, found it difficult to come to an agreement. The Spanish commissioners urged that the Cuban debt (which was said to be about $450,000,000) should go with the island and should be guaranteed by the United States. The Americans maintained that the United States, which claimed no sovereignty over Cuba, had nothing to do with its debt; and they denied the justice of charging upon Cuba a debt contracted in the unsuccessful attempt to keep the island in subjection. In November it was reported that the United States claimed the entire Philippine group and was willing to pay $20,000,000 for it, but would not assume the debt charged upon those islands — terms against which the Spaniards protested.

THE CONQUERED TERRITORIES. — **The military governments** established in the territories occupied by the armies of the United States were instructed to apply, as far as possible, the local laws and to utilize, as far as seemed wise, the services of the local Spanish officials. — **Tariffs of import duties** were framed in Washington: for Manila in July; for Cuba and Porto Rico in August. In the main the Spanish minimum rates were adopted; surtaxes were abolished; and no preference was given to American goods. The regulations for Porto Rico treated that island, for at least one purpose, as already a part of the United States: trade between Porto-Rican ports in the possession of the United States, and between such ports and those of the United States, was restricted to vessels with American registry. In Cuba, United States officers were authorized to admit, free of duty, food

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

supplies (order of September 6) and oxen and agricultural implements (order of October 8). — When **Porto Rico** passed wholly under American authority (October 18), General Brooke retained provisionally the insular cabinet. A meeting of delegates from the chief towns resolved on October 30 to ask Congress for the establishment of a civil government. — **In Cuba** the most pressing problem with which the American authorities had to deal was **the relief of the inhabitants from famine.** It was reported, before the end of the war, that the *reconcentrados* were nearly all dead; that the number of persons suffering for want of food had greatly increased; and that the insurgent soldiers themselves were famished. With the landing of the American forces at Daiquiri, the relief work interrupted at the outbreak of the war was resumed, and after the occupation of Santiago it was thoroughly organized. Rations were distributed by the military authorities and more varied relief was furnished by the Red Cross Society. After the termination of hostilities, attempts were promptly made to give the same assistance to other parts of Cuba; but these endeavors were largely frustrated by the Spanish officials, who declared in some cases that no help was needed and refused in all cases to admit food or other supplies without the payment of heavy duties. — **The sanitary condition** of Santiago was greatly improved under the administration of Brigadier-General Wood, who was appointed governor of the city July 20. It was stated, November 1, that no yellow-fever cases had developed since September 1, and that the general health of the city was far better than at the same period in preceding years. An investigation of the conditions at Havana was made in October by Colonel Waring, former commissioner of street cleaning in New York City. In this work Colonel Waring contracted the yellow fever and died immediately after his return to New York. — **The disbandment of the Cuban army,** alleged to number 15,000 men, was, at the close of this RECORD, the most serious question in Cuban administration. The insurgent government promptly accepted the armistice proclaimed at Washington August 12, and in September it issued addresses to the Cuban army and people expressing gratitude for American assistance and confidence in American intentions; but it gave no orders for the discharge of its forces. It was reported in September that President Masso desired to conform in this matter to the wishes of the United States, and it was suggested by General Nunez that the United States should advance the money required to pay off the insurgent officers and soldiers. This suggestion, however, was not accepted by the American government; and it was stated in October that General Gomez wished to keep the Cuban army together until the Spanish forces should be withdrawn. In Santiago province some progress was made toward the solution of this question by Major-General Lawton, who refused to supply the insurgents with rations except upon the surrender of their arms, but at the same time held out the prospect of the enrollment of the most trustworthy veterans as a local constabulary. General Lawton's policy in this matter was followed by Gen-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

eral Wood, who became governor of the province in October. Generals Lawton and Wood also established friendly relations with General Garcia, and secured his services for the furtherance of the American aims. — At the close of October, a **Cuban assembly**, largely composed of delegates from the several divisions of the army, met at Santa Cruz del Sur. Garcia's friends were apparently in the majority. Early in November a resolution was passed favoring the disbandment of the Cuban army. A delegation was elected, with Garcia at its head, to make arrangements with the United States Government. On November 10 the assembly accepted the resignations of President Masso and of his cabinet. — **In the Philippines**, as in Cuba, the United States authorities were embarrassed by the existence and activity of an insurgent government which Aguinaldo established June 12, and of which he declared himself president. On July 1 he proclaimed a **Philippine republic**; on the 21st he organized a cabinet; and on August 6 he issued an address to the European powers. Excluded with his forces from the city and suburbs of Manila, he disregarded the armistice proclaimed by President McKinley and continued his warfare against the Spaniards. In September it was reported that he had occupied all Luzon except the province of Albay, and was fitting out expeditions against the southern islands. On September 23 Admiral Dewey caused a vessel loaded with arms for the insurgents to be seized at Batangas. — While Aguinaldo had asserted, in August, that he would disarm his forces, if assured that the islands would be retained by the United States; and while a Philippine assembly, which was convoked by him at Malolos, September 16, was said to favor annexation to the United States, the American government deemed it advisable to strengthen its forces; and early in November all the troops collected at San Francisco had sailed for Manila. — Although the Spaniards claimed repeated victories over the insurgents in the other islands, it was stated by Admiral Dewey in October that Spanish authority had disappeared throughout the Philippines except in Albay province, Luzon, and at Ilo-ilo, Panay. The southern islands were reported to be in a state of anarchy.

PEACEFUL FOREIGN RELATIONS. — Immediately before the war and in its early stages, it was persistently reported that attempts had been made to secure joint European action against the United States, and that these attempts had been thwarted by Great Britain. Whether true or false, these reports affected popular opinion; and the pronounced friendliness of the British press, which obtained heightened value against the background of continental European condemnation, produced in the United States an unprecedented **cordiality of feeling toward Great Britain**. This was increased by a speech made at Birmingham, May 13, by Mr. Chamberlain, British Secretary of State for the Colonies, in which he advocated an "Anglo-Saxon alliance"; and by the formation at London in July, under the direction of prominent Englishmen and Scotchmen, of an Anglo-American League, intended "to secure the most cordial and constant coöperation

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

between the two nations." The friendly feeling which these and other demonstrations expressed or awakened on both sides of the Atlantic was not without immediate political results. The United States government receded from the position it had taken six months earlier (see preceding RECORD, p. 370); and on May 30 an agreement was reached for the appointment of a joint **British-American commission to deal with all matters in dispute** between the two countries. The British government appointed as its commissioners: Lord Herschell, Sir Wilfrid Laurier (the Canadian premier), Sir Richard Cartwright (Canadian minister of commerce), Sir Louis Davies (Canadian minister of marine and fisheries), Mr. John Charlton (a member of the Canadian House of Commons) and Sir James Winter (the premier of Newfoundland). The United States government appointed Senators Fairbanks and Gray, Mr. Dingley (Republican leader in the House of Representatives), General J. W. Foster, Mr. J. A. Kasson and Mr. Jefferson Coolidge. The transfer of Senator Gray to the American-Spanish peace commission created a vacancy which was filled (September 19) by the appointment of Senator Faulkner. The joint commission met at Quebec August 23, and after effecting an organization, adjourned until September 20. It adjourned again, October 10, to meet in Washington, November 10. — On June 14 the United States House of Representatives made provision, out of the regular order of business and by unanimous consent, for the long-delayed payment to Great Britain of the sum of $473,151, awarded for damages suffered by Canadian sealers. Later in the same month the British government, upon receiving evidence that Señor Dubosc, former Spanish *chargé d'affaires* at Washington, was making Canada a base for secret operations against the United States, requested him to leave British America. — **The relations with Germany** were less cordial. The concentration in Manila harbor, in May, of a German naval force that seemed out of proportion to the German interests imperilled; reports of sympathy with the Spaniards demonstratively displayed by German naval officers; stories of friction between the German and American admirals; suggestions in journals, supposed to be inspired by the imperial government, that Germany desired a foothold in the Philippines — all these things excited, in American public opinion, doubts regarding Germany's intentions. It was semi-officially declared, both at Berlin and at Washington, that the relations of the two countries were friendly; but the sending of two armored coast-defense vessels from San Francisco to Manila in June and the transfer of two American battle-ships from the Atlantic to the Pacific in October were regarded as precautions against possible German interference. — On May 30 the United States concluded a reciprocity treaty with France, providing for slight reductions of import duties. — Exclusion decrees affecting American food products continued to furnish material for American protests and for negotiation. In July Switzerland, following the example of Germany and Austria, prohibited the importation of fresh and dried American fruits, with a view of keeping out

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the San José scale. — **Hawaii was annexed** to the United States by joint resolution of the House (June 15) and Senate (July 6). In the House the resolution was passed by a vote of 209 to 91, thirty Democrats and Populists voting with the Republican majority and three Republicans with the opposition; in the Senate the vote was 42 to 21, six Democrats voting for the resolution and two Republicans against it. The action of Congress was hastened by the facts that the United States was already using the port and city of Honolulu as a naval and military station; that the Spanish vice-consul at Honolulu had protested, June 1, against this violation of neutrality; and that the Hawaiian minister of foreign affairs had replied that his government was not neutral, but had "tendered to the United States privileges and assistance." The United States took formal possession of Hawaii August 12. In the mean time, on July 9, President McKinley appointed **commissioners to frame a plan of government** for the territory of Hawaii, namely: Senators Cullom and Morgan (members of the Senate committee on foreign relations), Representative Hitt (chairman of the corresponding House committee), Mr. Dole (president of the Hawaiian republic) and Justice Frear of the Hawaiian Supreme Court. This commission was in session at Honolulu from August 25 till the latter part of September. On September 12 a mass-meeting of natives adopted and sent to the commissioners a memorial declaring that the joint resolution of the Congress of the United States could not effect the annexation of Hawaii without the assent of the Hawaiian people or of a representative Hawaiian legislature, and praying for the restoration of the constitutional government of January 16, 1896. — The last important act of the Hawaiian republic was to settle, by paying to Japan an indemnity of $75,000, the controversy that had arisen from the exclusion of Japanese laborers. Pending action by Congress in regard to the constitution and laws of Hawaii, it was decided at Washington that the United States laws concerning Chinese immigration were applicable in the new territory. — Upon the death of King Malietoa of **Samoa**, at the end of August, and pending the selection of his successor, the government of the islands, in accordance with the Berlin treaty of June 14, 1889, passed into the hands of the (American) chief justice, the (German) president of the municipal council of Apia and the British, German and American consuls. The United States government had decided, before this occurrence, to make use of its treaty right to establish a coaling station at Pago-pago, Tutuila; and the contract for the work was awarded in September.

THE ADMINISTRATION OF THE WAR. — The first steps taken to strengthen the naval and military forces of the United States were described in the last RECORD. **The navy**, before war preparations began, had less than one hundred vessels in commission; during the war the number was 193. The enlisted force of the navy was more than doubled: it was increased from 14,000 to 32,000. The auxiliary ships were manned in some cases by the enlistment of their former crews, in other cases by the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

naval reserves of the coast and lake states. Naval reserves were also employed to man some of the older monitors, assigned to the defense of the harbors. — **The army** was increased tenfold. On May 25, when nearly all the 125,000 state volunteers called for on April 23 had been mustered in, the President issued a second call for 75,000. These two calls and the enlistments at large, authorized by special acts of Congress (see last RECORD, p. 372 and below, p. 756) made provision for an army of 61,000 regulars and 216,500 volunteers. At the close of the war the regular army had reached the strength of 56,365 enlisted men; and the volunteer army numbered 8785 officers and 207,244 men. The medical examination of candidates for enlistment was very rigid; in the state regiments offered to the United States a considerable percentage of those who wished to volunteer was rejected; and it was reported that nearly three-fourths of the applicants for enlistment in the regular army were refused. — In appointing generals and general staff officers for the volunteer army, the President and the Secretary of War gave preference, as far as the higher commands were concerned, to officers of the regular army; and, after these, to West Point graduates in civil life and to veterans of the civil war; but in the lower grades of the general staff, particularly in the subsistence and quartermaster's departments, a great majority of the places were given to civilians nominated by members of Congress or by other influential politicians. — In providing negro volunteer regiments with officers, **the race question** arose. In some cases these regiments desired negro officers; but even where the authorities were disposed to meet this desire, it was found difficult to secure competent negroes for all the places, and equally difficult to induce white officers to serve under or even with black colleagues. One regiment at least (the Eighth Illinois) took the field with a full set of colored officers, but its discipline was said to be unsatisfactory. In some of the immune colored regiments the problem was solved by giving commissions to colored sergeants of the regular army. — Considerable difficulty was experienced throughout the war in securing transports; and special acts were passed conferring American registry upon foreign-built ships. — With the conclusion of the preliminary peace came only a partial return of peace conditions: about half of the volunteers were mustered out; the remainder were held for the occupation of the conquered territories. The auxiliary navy was largely reduced and the naval reserves were mustered out. — **The war expenditures** up to the end of October were, in round numbers, $165,000,000; $40,000,000, for the navy and $125,000,000 for the army. The lives lost in the army and navy from May 1 to September 30 numbered 2910; of these 2604 died from disease. — During the war complaints were heard, not only from the troops on transports and in the field, but also from those in the home camps, of insufficient supplies, unsatisfactory food and inadequate medical attendance; and it was stated that the Red Cross Society and the National Relief Association had been compelled to devote the greater part of their labor and funds to remedy-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ing governmental omissions. At the close of hostilities complaints multiplied, and great indignation was aroused regarding the **alleged inefficiency of the War Department** and the resultant suffering and mortality among the soldiers. It was deemed especially inexcusable that the camps in the United States should have been scourged by filth diseases like typhoid. The defenders of the administration maintained that the evils were exaggerated; that such as were real were in large measure inseparable from war; and that such as were in theory preventable were occasioned by ignorance and lack of discipline on the part of the volunteers and by the inexperience or incapacity of their regimental officers. At the request of the Secretary of War (September 8) President McKinley ordered an **investigation of the War Department** as a whole, and particularly of the commissary, quartermaster's and surgeon-general's departments, and appointed the following committee: Ex-Governor J. A. Beaver of Pennsylvania, Dr. Phineas Conner of Ohio, Charles Denby of Indiana (former minister to China), Major-General G. M. Dodge of Iowa, Captain E. P. Howell of Georgia, Major-General A. McD. McCook (retired officer of the United States army), Colonel J. A. Sexton of Illinois, Major-General J. M. Wilson (chief of engineers of the United States army) and Ex-Governor U. A. Woodbury of Vermont. The committee met at Washington September 24; organized by electing General Dodge chairman and appointing secretaries; and, after taking much testimony at the capital, proceeded in October to make the circuit of the camps.

INTERNAL ADMINISTRATION. — Changes in the personnel of the administration were not numerous. In place of Mr. W. R. Day, appointed a member of the peace commission, Mr. John Hay, ambassador at the Court of St. James, was made Secretary of State; and in place of Mr. J. B. Moore, appointed secretary of the same commission, Mr. D. J. Hill of New York was made first assistant secretary of state. Early in May Mr. C. H. Allen of Massachusetts was appointed first assistant secretary of the navy, succeeding Mr. Theodore Roosevelt, who resigned in order to accept the lieutenant-colonelcy of the First United States Volunteer Cavalry ("rough riders"). Mr. Oscar Straus of New York, former minister to Turkey, was again appointed to that position at the end of May. — **Internal revenue** receipts showed a considerable increase before July 1; the new taxes that then became operative proved very productive; and with these and other receipts, and the proceeds of an issue of $200,000,000 of three per cent bonds, the Treasury met easily the extraordinary demands of the summer. In the autumn receipts were so largely in excess of expenditures that it was thought advisable to anticipate interest payments. **The war loan** was intended by Congress to be popular. According to the law, the bonds were to be offered at par, and were to be allotted first to individual subscribers; and among these preference was to be given to the smaller subscriptions. The Secretary of the Treasury made every effort to carry out the intention of Congress. In all cases in which it appeared that

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

banks or other financial institutions were working through small bidders, the bids were rejected. The loan, which was largely over-subscribed, was distributed among more than 320,000 applicants, in amounts ranging from $20 to $4480. Before the bonds were issued they were quoted at a premium of five per cent. — **Statistics of foreign trade** for the fiscal year 1897–98, published by the Treasury Department in July, showed that exports from the United States were greater than in any preceding year; and that their value, $1,231,311,868, was almost double that of the imports, $616,052,844. The export of domestic manufactures reached the unprecedented figure of $283,871,449, and the greatest increase was in iron and steel manufactures — thirteen millions more than in any other year. — The Interstate Commerce Commission decided, September 2, that the Canadian Pacific Railway was entitled to no differential in its competition with the other transcontinental lines, and expressed its hope that the rate war would be settled on the basis of this decision. — The Industrial Commission established by act of June 18, 1898, met at Washington, October 18, and organized by electing Senator Kyle chairman; Ex-Representative Phillips of Pennsylvania, first vice-chairman; Representative Gardner of New Jersey, second vice-chairman; and J. M. Farquhar of Buffalo, New York, temporary secretary. It then adjourned until the middle of November. — Dissatisfaction was expressed early in the summer by friends of **the Indians**, at the removal of officials of proved competency to make room for political appointments. At Bear Island, Minnesota, October 5, a serious conflict took place between the Pillagers (a group of Chippeway Indians) and a United States marshal and his deputies, supported by a small body of regular soldiers. The latter party lost seven killed and eleven wounded. The immediate occasion of the conflict was the attempted arrest of certain Pillagers, who were charged with violating the liquor laws; but the disaffection which caused the outbreak was said to be owing in part to causeless arrests made by deputy marshals for the sake of fees, and in part to blunders or frauds in the appraisal and sale of the timber on the Chippeway lands — a measure preliminary to the removal of the tribe from its old home.

CONGRESS. — The war revenue bill passed by the House April 29 was entirely recast by the Senate finance committee, and the greater part of the changes recommended (May 12) were adopted by the Senate. After the final vote in the Senate, June 4, the House refused to concur and the bill was sent to conference. The chief controversy was over the issue of bonds and the coinage of silver. The House bill authorized the issue of 10–20 three per cent coin bonds to the amount of $500,000,000. The Senate bill limited the bond issue to $300,000,000; required the issue of one-year three per cent certificates of indebtedness to the amount of $50,000,000 before any long-term bonds should be sold; and adopted provisions calculated to make both of these loans popular. The Senate bill further provided for the coinage of all the silver in the treasury at the rate

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of $4,000,000 a month and for the issue of certificates to the amount of the seigniorage. The war taxes of the House bill were generally retained (but not the increased tax on tonnage) and the Senate bill introduced many more, *e.g.*: taxes on tea, on mixed flour, on parlor-car and sleeping-car tickets and on sales on stock and produce exchanges; license taxes upon bankers and brokers and on places of amusement; a tax on the gross receipts of corporations engaged in refining sugar or petroleum; and a progressive tax on legacies and distributive shares of personal property. — The conference report authorized the issue, as popular loans, at the discretion of the Secretary of the Treasury, of 10–20 bonds up to $400,000,000 and of one-year certificates of indebtedness up to $100,000,000. On the silver question also a compromise was reached; all the silver in the treasury was to be coined, but only at the rate of $1,500,000 a month, and no more silver certificates were to be issued. The additional taxes of the Senate bill were retained with little modification. The conference report was adopted by the House, June 9, by a vote of 153 to 111, and by the Senate on the following day by a vote of 43 to 22. In the Senate eight Democrats and one Silver Republican voted with the majority; the other Silver Republicans and the Populists with the minority. — In addition to the **war legislation** noted in the last RECORD, bills were passed and approved providing for the enlistment at large of 10,000 volunteers "possessing immunity from diseases incident to tropical climates" and of 3500 volunteer engineers (May 11); establishing a volunteer signal corps (May 18); authorizing the issue of supplies and the furnishing of arms, munitions and military stores to the people of Cuba (May 18); creating a volunteer navy of 3000 men and providing for its organization (May 26); increasing the engineer corps of the regular army (July 5); increasing the force of the ordnance department and the efficiency of the quartermaster's and subsistence departments (July 7). **War appropriations** were made to the amount of $360,000,000. — Closely connected with the war legislation was the bill approved June 6, removing all disabilities imposed by the third section of the fourteenth amendment to the constitution — a measure which affected but a small number of the surviving adherents of the Confederacy, but which marked the passing of historical hatreds. — Of measures having no relation to the war the most important were: an act extending the homestead laws and providing for right of way for railroads in Alaska (May 14); a general bankruptcy law (July 1); and the joint resolution for the annexation of Hawaii (July 7). — The general deficiency appropriation (July 7) contained a provision for a settlement with the Central Pacific and Western Pacific railroads. — Acts of June 28 and July 1 provided, among other things, for allotments in severalty in the Indian territory and for ratifying the agreements concluded with the Choctaws, Chickasaws and Seminoles by the Dawes commission. — **Labor interests** were recognized in the act of June 1, providing for arbitration between interstate carriers and their employees; and in the act of June 18, creating a non-partisan industrial

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

commission of five senators, five representatives and nine other persons representing different industries and employments — these nine at a salary of $3600 each — "to investigate questions pertaining to immigration, to labor, to agriculture, to manufacturing and to business" and to recommend legislation. — Congress adjourned July 8. — Several important measures were passed by one house only. The House passed, on May 17, a resolution to amend the constitution so as to cause senators to be elected by direct popular vote; and on May 17 a new eight-hour bill applicable to all federal employees; but neither measure came to a vote in the Senate. The House failed to act on the Senate bill restricting immigration (see last RECORD, p. 372) and on the bill passed by the Senate June 17 incorporating the International American Bank. — Bills for the reorganization of the naval service and for the reform of the currency were introduced by House committees, but were not brought to a vote.

THE FEDERAL JUDICIARY. — The Supreme Court decided, April 25, that the progressive inheritance tax law of Illinois was not in conflict with the provisions of the federal constitution (Magoun *vs.* Illinois Savings Bank). On the same day it sustained the provisions of the Mississippi constitution regarding qualifications to vote and to serve on juries on the ground that colored men were not in terms debarred from either privilege (Williams *vs.* Mississippi). On May 9 it declared that the South Carolina Dispensary law, as amended March 5, 1897, was still in some parts unconstitutional, as interfering with interstate commerce (Vance *vs.* Vandercook Co.). On May 23 it held, on the same ground, that a Pennsylvania law, prohibiting the sale of oleomargarine, and a New Hampshire law, forbidding its sale unless it were colored pink, were invalid, as regarded oleomargarine imported from other states; and that it was immaterial whether the packages were large and intended for the wholesale trade, or small and shipped directly to the retailer or the consumer (Schollenberger *vs.* Pennsylvania; Collins *vs.* New Hampshire). On May 31 it upheld the right of a state to provide for the inspection of articles of interstate commerce and to establish reasonable charges for such inspection (Guano Co. *vs.* Board of Agriculture of South Carolina). On the same day it so modified its decree in the Nebraska Maximum Freight Rate case as to indicate that the reasonableness of future schedules would be determined according to the facts existing when such schedules should be put in force. On the same day it reversed a decision of the circuit court of West Virginia, rendered November 8, 1897, and declared that even if a federal officer were removed in violation of the Civil Service Act, the federal courts had no power to restrain his superior officer by injunction (White *vs.* Bury). On October 24 it decided that the Anti-Trust Act was constitutional and that under its provisions the Joint Traffic Association of the principal Eastern railways was illegal (United States *vs.* Joint Traffic Association). On October 31 it decided that a state might tax foreign corporations according to the capital employed within the state (Parke Davis and Co. *vs.* Comptroller

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of New York). — On June 25 the district court of the northern district of California decided that the eight-hour law passed by Congress August 1, 1892, was applicable to labor on all public works of the United States, although these were within the jurisdiction of a state (United States *vs.* San Francisco Bridge Co.).

STATE AND CONGRESSIONAL ELECTIONS. — In the political campaigns of the summer and the autumn, the money question fell into the background. The Democratic conventions of the West and South, indeed, reaffirmed the platform of 1896, and in nearly all the Western states the silver parties effected a fusion against the Republicans; but Democratic conventions in several of the most important Eastern states passed over the issue in silence. The Republicans made the most of the successful outcome of the war, while the Democrats utilized the dissatisfaction occasioned by the alleged inefficiency of the War Department. Efforts to commit the Republican party to a policy of expansion and the Democratic party to the contrary policy were only partly successful. — In the six state elections held during the summer and the early autumn, and in the general elections of November, the Republicans carried most of the doubtful Eastern states and made gains in the Middle West and the Northwest. In consequence of losses in the East and South, the House of Representatives remains Republican by a small majority only; but a large Republican majority seems assured in the next Senate, and also a clear majority for sound money. The principal features in the elections were: the crippling of the Populist and Silver parties; the apparent popularity of war and expansion in the West, and the relative unpopularity of both in the East.

STATE LEGISLATION. — The draft constitution for Rhode Island (see last RECORD, p. 374) was approved by the legislature, June 15, but failed to receive the requisite popular majority on November 8. The results of the popular vote upon constitutional amendments submitted in other states were announced, at the close of this RECORD, in the following instances: An amendment providing for the initiative and referendum in state and municipal legislation was adopted in South Dakota; an amendment intended to secure home rule for cities was adopted in Michigan; a "single-tax" amendment, permitting municipalities to determine on what class or classes of property their taxes shall be levied, was rejected in Washington; a "dispensary" amendment, providing for exclusive state control of the manufacture and sale of liquors, was rejected in South Dakota; woman-suffrage amendments were lost in Washington and in South Dakota; the woman school-franchise was extended in Minnesota. — Legislative activity during the six months brought only a limited number of important measures to completion. The Negotiable Instruments Act, approved by the state commission on uniformity of legislation, was adopted by the Massachusetts legislature. This act had previously been adopted by New York, Connecticut and four other states. The Massachusetts legislature also established a separate board of insanity; revised its

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

settlement law, some of the provisions of which were extremely antiquated; adopted the Torrens system of land registration; and (following the example set by Virginia and Maryland earlier in the year) made it unlawful to use or deal in trading stamps. Massachusetts and Rhode Island passed laws for the regulation of street railways. The Rhode Island law applies only to the companies accepting it, and acceptance is declared to establish a contract that is not to be changed without the consent of both parties. The Delaware legislature passed a new ballot law, abolishing the Australian system and returning to that of separate party tickets. — In June the Supreme Court of Ohio declared invalid a law passed last winter making women eligible to appointment as notaries public. In October the Supreme Court of Illinois sustained the amended Torrens Land Title Act.

MUNICIPAL AFFAIRS. — By the Metropolitan Elections Act of July 16, passed by the New York legislature at a special session, the police of **New York City** were deprived of the supervision of elections for state officers. A metropolitan elections district was created, consisting of the city of New York and the county of Westchester; and the supervision of state elections in this district was vested in a state superintendent, to be appointed by the governor. — In June the Supreme Court of Nebraska, overruling its own previous decision, held that a statute vesting in the governor the power to appoint fire and police commissioners in **Omaha** was unconstitutional, not because the legislature was limited by any express prohibition of the Nebraska constitution, but because the statute invaded "the right of local self-government, one of the principles upon which our state fabric rests." — On May 27 a new charter for **San Francisco** was submitted to and adopted by the voters of that city. This charter introduces the referendum, not only for amendments but also for the more important ordinances; and provides for the popular initiation of amendments and ordinances by petition of fifteen per cent of the voters.

LABOR CONFLICTS. — Throughout the summer and up to the close of this RECORD, the coal miners of the Pittsburg and Monongahela districts, Pennsylvania, were on strike, but no serious disturbances were reported. — Conflicts between strikers and non-union men, with resulting loss of life, occurred at Oshkosh, Wisconsin, June 23, in connection with a woodworkers' strike; and at Galveston, Texas, September 23, in connection with a strike of negro 'longshoremen. — More serious disturbances occurred at Pana and at Virden, Illinois, resulting from the attempts of the managers of the local collieries to replace their striking miners by negroes brought from other states. The strike at Pana broke out in August; on September 1 the strikers attacked officers of the colliery; on the 30th they held up a train bringing negro miners from Indiana and sent the negroes back to that state. Governor Tanner thereupon sent a small body of state troops to Pana, with instructions to maintain order but to give no aid to the importation of negro labor. Meanwhile a strike was declared at the Virden colliery; and the governor, ascertaining that the managers pro-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

posed to import negroes, warned them that they would receive no assistance, and that, if they used Winchesters, they would be disarmed. On October 12 a train bringing negroes from Alabama into the colliery stockade at Virden was attacked by the strikers, and a conflict took place between them and the train and mine guards, in which a dozen men were killed and twice as many wounded. State troops were sent; martial law was proclaimed; and both parties were disarmed. The governor then ordered the officers in command at Virden and at Pana to prevent the importation into either place of negroes from other states, and authorized them, if necessary, to arm "the citizens." Governor Tanner admitted that he had no warrant of law for his action, but asserted that he was protecting the interests of the people of the state and enforcing their will. — On June 4 eleven officers of labor organizations at Washington, District of Columbia, who had put a carriage maker on their list of unfair dealers, were indicted under the Anti-Trust Act of 1890.

LYNCH LAW AND RACE FEUDS. — Forty lynchings were reported by the newspapers: one of a white man in Kansas for murder; one of a negro in Illinois for rape; all the others of negroes in the former slave states. In the southern lynchings the alleged offense was, in nineteen cases, murder or murderous assault; in seventeen, criminal assault upon women or female children; in two, resistance to sheriffs. — In several Southern states energetic efforts were made to protect negroes under arrest. State troops were ordered out in Alabama in June and in Kentucky in July. At Augusta, Georgia, November 2, the police defending the jail repelled a mob of several hundred men, killing one. — In May Governor Bradley of Kentucky refused to demand the extradition from Illinois of a negro who was under indictment for rape in Graves County, Kentucky, basing his refusal on the wholesale slaughter of negroes by mobs in that county and on the failure to punish their murderers. — Governor Russell of North Carolina announced, at the beginning of his term of office, that he proposed to diminish lynching by making the punishment for criminal assault swift; and he promised that every such case should be tried within a month after the arrest. In October he ordered a special term of the district court at Charlotte to try one negro. Of the lynchings reported during the six months none took place in North Carolina, although race feeling was strongly aroused in the political campaign. — **Conflicts between bands** of negroes and of whites occurred in the autumn in three states. At Ashpole, North Carolina, October 23, a party of negroes opened fire upon a party of white men, wounding three. The negroes were run down with bloodhounds; several arrests were made; no lynching took place. At Harpersville, Mississippi, on the same day, a more serious conflict began. A party of about fifty negroes assembled to protect one of their race from arrest; fired upon the sheriff's posse, killing one white man and wounding three; and then took to the woods and swamps. The country was roused; the negroes were hunted for a couple of days, and fourteen of them were

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

killed. Five who were made prisoners and were menaced with lynching were rescued by the sheriff and taken to Meridian. At Phœnix, South Carolina, an election quarrel, November 8, resulted in the killing of a Democratic manager and the wounding of a white Republican leader named Tolbert. Other members of the Tolbert family — all of whom were prominent Republicans and two of whom held federal offices — were then attacked by white Democrats, and were defended by some of their negro followers. Two or three negroes were killed; several whites (including two more Tolberts) were wounded; the remaining Tolberts fled from the state. On the 9th and 10th, six or seven negroes were shot down in cold blood for participation in the fighting of the 8th. — At Wilmington, North Carolina, there occurred, at nearly the same time, a local revolution of the sort that was common when the South was emerging from "carpet-bag" rule. The local officials were Republicans, elected mainly by negro votes. On November 9 a committee of leading citizens was appointed to establish "white supremacy." This was done on the 10th. The revolution was not wholly peaceful: the printing office of a negro newspaper was destroyed; there were collisions between the whites and the blacks; nine negroes were killed and a number of negroes and whites were wounded. Before the close of the day the council, mayor and chief of police resigned, and a Democratic government was established. The leaders of the negroes, whether white or colored, were expelled from the town. An effort to lynch some negro prisoners was defeated. — Early in July eleven persons were indicted at Charleston, South Carolina, as participants in the Lake City murders of February 22 (see last RECORD, p. 375). The accused were admitted to bail in $2000 each.

II. FOREIGN NATIONS.

EUROPEAN INTERNATIONAL RELATIONS. — Under the superintendence of the great powers, the provisions of the treaty of peace between **Greece and Turkey** were punctually executed. The delimitation of the frontier was completed May 30; the last Turkish troops evacuated Thessaly, June 6; and the last installment of the war indemnity was paid into the Paris branch of the Ottoman Bank, July 10. On the same day the bank was notified to hold back 1,600,000 francs, claimed by the French and Italian governments for damages inflicted upon their subjects during the Armenian disturbances. With Russia, which demanded from the Porte the payment of a substantial part of the war indemnity of 1878, terms had already been made in June. The Porte paid a round sum in cash, and the Ottoman Bank guaranteed two further annual payments. — **Crete** remained during the summer under the *de facto* government of the Cretan assembly in the interior; the *de jure* government of the Turks in the coast towns; and the superior control of Great Britain, France, Italy

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and Russia, exercised through war-ships and through garrisons amounting to four or five thousand men. The European admirals kept the peace, as far as possible, between the Christians and the Mussulmans, while their governments negotiated with the Porte. — The attempt on the part of the British to take control of the tithes administration at Candia led, on September 6, to a bloody conflict. A Mussulman mob, reinforced by bashi-bazouks and ultimately by regular Turkish soldiers, drove back the small British force, killing an officer and a score of men; massacred several hundred Christians; and looted and burned the European consulates and many shops and houses. The town was bombarded; Italian, French and Russian contingents were sent to the aid of the British; British reinforcements arrived within a few days. The British admiral demanded and, after the usual Oriental evasions and delays, secured the surrender of the ringleaders and the disarmament of the Mussulmans. Meanwhile the four powers, after seeking and failing to obtain the adhesion of Germany and Austria, demanded of the Porte, October 5, the **withdrawal of the Turkish forces from Crete** within thirty days, under pain of forfeiture by Turkey of its rights of sovereignty. The Porte yielded; the embarkation of the Turkish troops began October 19 and was completed — not without pressure at the last — before the middle of November. — Pending the organization of an autonomous government, Crete remains under the control of the four powers. At the close of this RECORD they had forces on the island aggregating 16,000 men (half of these British) and they had undertaken (as was provided in the ultimatum of October 5) the protection of the Mussulmans, many of whom were nevertheless emigrating. Early in November it was announced that Russia had proposed and that Great Britain, France and Italy had accepted the nomination of Prince George of Greece as High Commissioner of the four powers. — International significance was attached to the **German Emperor's visit to Constantinople and Palestine.** A five days' sojourn in the Turkish capital (October 18–22), where he was entertained with lavish hospitality, emphasized the intimate relations already established between Germany and Turkey, and smoothed the way, it was asserted, for the granting to German capitalists of valuable concessions in Asia Minor. At Jerusalem the Emperor witnessed the consecration of the Protestant Church of the Redeemer, and acquired and presented to the Catholics of Germany the dwelling of the Virgin. Throughout his pilgrimage he emphasized the power and the purpose of Germany to protect German Christians everywhere. This was his answer to a papal letter of August 20 to the archbishop of Rheims and a papal allocution to French pilgrims, October 8, in which the Pope had alluded to the protectorate exercised by France over Catholics in the East — utterances which had already elicited German protests and the announcement that the Prussian envoy to the Vatican, then absent on leave, would not return to his post, and that for the present no successor would be named. — At the close of the summer the world was surprised by a **Russian manifesto**

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

in favor of universal peace. On August 27 the Russian Foreign Minister, Count Muravieff, proposed to the foreign diplomatists at St. Petersburg an international conference to secure real and durable peace and to put an end to the progressive increase of armaments. Except in France, the suggestion was received with sympathy; and all the leading governments accepted the proposed conference. — **The assassination of the Empress of Austria** at Geneva, September 10, by an Italian anarchist, and the discovery at Alexandria, in October, of an anarchistic plot against the German Emperor, called fresh attention to the dangerous character of the movement. In September the Italian government proposed a European conference to consider international measures against anarchism. All the cabinets accepted the invitation, and it was announced that the conference would meet at Rome, November 24. — An international **sugar conference**, which met at Brussels, June 10, adjourned, June 25, without accomplishing anything, because France and Russia refused to abandon export bounties. — The diplomatic activity of the leading powers centered, as usual, in Africa and in the Far East. From the point of view of European politics, the most noteworthy developments were: a British-German agreement, officially declared to relate only to the claims of the two empires in South Africa, but to be significant as furnishing the basis for more cordial relations; an increasing tension between Great Britain and Russia, resulting from Russia's persistent forward movements in North China; and a crisis in British-French relations, caused by the French occupation of Fashoda. The dispute between England and France over the control of the upper Nile seemed, in October, to threaten war. Both governments made energetic naval preparations, but French concessions appeared, at the close of this RECORD, to insure peace.

GREAT BRITAIN AND IRELAND. — William Ewart Gladstone died May 19 and was buried with impressive ceremonies in Westminster Abbey. — **Parliament** was in session until August 12. A committee appointed to investigate professional money-lending took much testimony showing outrageous spoliation of borrowers, and reported in July that the only effective remedy for the evils of the system was to give the courts "absolute and unfettered discretion." An old-age pensions committee reported in the same month that they had been unable to devise any plan "free from grave inherent disadvantages." Of **measures affecting the United Kingdom** only, the most important that received the sanction of Parliament were: the Irish Local Government Act (the leading provisions of which were noted in the last RECORD, pp. 376, 377); the Benefices Act, checking abuses of patronage in the Church of England; the London University Act, looking to the transformation of this purely examining body into a teaching body; the Colonial Marriages Act, making a marriage with a deceased wife's sister, validly contracted in any British colony, valid in Great Britain also, and enabling children born of such a marriage to inherit real property; the Criminal Evidence Act, permitting all accused persons

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and their wives or husbands to be heard as witnesses; the Vaccination Act, one clause of which exempts from penalties any parent who conscientiously believes vaccination to be prejudicial to health; and an act excluding insane and pauper immigrants. Of **imperial measures** passed, the more important were: the Colonial Loans Act, designed primarily to afford relief to the West Indian Colonies; an act remitting the claim against the Egyptian government for repayment of £798,000 "granted in aid" in 1897 (for the history of this transaction, see RECORD, December, 1896, p. 786, and June, 1897, p. 378); and acts providing for the addition of 22,000 men to the army and for the construction of seven battle-ships, eight armored cruisers and twelve destroyers. — As the result of a conference, opened at London, July 5, between the postmaster-general and representatives of all the British colonies, it was announced that arrangements had been made for penny postage between Great Britain, Canada, the Cape of Good Hope and other parts of the empire. It was intimated that India would probably be included in the arrangements, but not the Australian colonies. — At the end of August the great **coal strike in South Wales** was settled on terms proposed by the employers. The strike had lasted for five months, had caused great loss and much suffering, and had led to breaches of public order and the intervention of the military. The men had struck against an automatic sliding scale, under which wages were determined solely by selling prices; and had demanded that wages be fixed by arbitration, that house rent and cost of provisions should be considered, and that a minimum wage should be established. In the settlement the old sliding-scale arrangement was renewed for four years and an immediate advance of five per cent on the March wages was granted. It was also agreed that, if wages were reduced below a certain point, the men should have the right to terminate the agreement on six months' notice. — **In Ireland** the great rebellion of 1798 was commemorated in various ways by the Parnellites and, to a certain extent, by the other Nationalists; but the island remained generally peaceful.

THE BRITISH COLONIES AND INDIA. — The Earl of Minto was appointed Governor-General of **Canada**, July 25, succeeding the Earl of Aberdeen. The question of prohibiting the importation, manufacture and sale of all alcoholic liquors, including beer and cider, was submitted to the voters of the Dominion, September 29. All the provinces except Quebec voted in the affirmative; but only twenty-two per cent of the electors voted and the majority for prohibition was less than 14,000. — At the solicitation of the **Newfoundland** government, royal commissioners were appointed in August to inquire into the state of affairs on the French Treaty shore. The commissioners, Sir John Bramston and Admiral Sir James Erskine, completed their investigation in October. — The depression of the sugar industry in the **West Indies** led to a demand, on the part of representatives of the various colonies assembled at Barbados in September, for the exclusion of "bounty-fed" sugar from the British markets or

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the imposition of countervailing duties. It led also to assertions, in Jamaica and other islands, of desire for annexation to the United States — assertions probably intended to affect public opinion in Great Britain. Grants in aid, offered by the imperial authorities and amounting in the aggregate to £41,500, were ill-received in some instances (especially by the people of Dominica), because conditioned on the control of the local finances by the Crown; and the remedy was generally pronounced inadequate. — The proposed **Australian federal constitution** was submitted to popular vote in four colonies early in June. Scarcely half of the qualified electors voted. The constitution was approved by overwhelming majorities in Victoria and in Tasmania, and by a large majority in South Australia. In New South Wales also there was a majority for ratification, but the affirmative vote fell short of the legal minimum of 80,000. The relative unpopularity of the proposed union in this, the largest of the Australian colonies, was said to be owing to its fear of being out-voted by the smaller colonies, especially in the matter of trade policy, in which they are protectionists, while New South Wales has thus far adhered to free trade. Parliamentary elections held in New South Wales at the close of July turned largely on the federation question. The Federalist opposition charged the government with insincerity in its support of union, and demanded new negotiations with the other colonies and a fair settlement. The elections greatly strengthened this party; but the government obtained a majority and, before opening negotiations with the other colonies, proceeded so to amend the proposed federal constitution as to make it acceptable to New South Wales. — In October the **New Zealand** legislature passed an Old Age Pensions Act. — On August 12 the British Under Secretary of State for Foreign Affairs, George N. Curzon (shortly afterwards created Baron Curzon of Kedleston), was appointed Viceroy of **India**, to succeed the Earl of Elgin. At the close of August the plague was spreading in the Bombay presidency, and there was a fresh outbreak at Hyderabad; but in the autumn there was a decline in the death rate. It was reported late in October that delegates from the Afridis had accepted tranquilly the British decision to occupy and fortify the Khybar Pass.

FRANCE. — The new Chamber of Deputies, elected May 8 and 22, met June 1. The Radicals had lost some twenty seats to the Socialist-Radicals and Socialists; but the majority on which the Méline ministry depended was apparently intact, for the Conservatives and the Moderate Republicans were as strong as before. On June 14, however, a resolution calling for "a majority exclusively Republican" was carried by a vote of 296 to 246. M. Méline and his colleagues resigned; and after three unsuccessful attempts, a ministry was formed on the 28th, consisting of Radicals and Socialist-Radicals. Its members were: Brisson, Premier and Minister of the Interior; Delcassé, Foreign Affairs; Peytral, Finance; Sarrien, Justice; Bourgeois, Education; Cavaignac, War; Lockroy, Marine; Trouillot, Colonies; Marujouls, Commerce; Viger, Agriculture; and

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Tillaye, Public Works. On June 30 M. Brisson promised the Deputies an income tax, workingmen's pensions and other reforms, none very radical, and received a vote of confidence, 316 to 220. — **The Dreyfus question** continued to engross public attention, partly in consequence of the efforts made to check its agitation. University professors and other officials who questioned the finality of the *chose jugée* were suspended or retired. On July 7 Minister Cavaignac made a speech in the Chamber of Deputies, in which he adduced fresh proofs of Dreyfus's guilt. Two days later, Lieutenant-Colonel Picquart, chief of the information bureau of the general staff in 1896, declared in an open letter that of the documents cited by Cavaignac two had no reference to Dreyfus and the third was a forgery. It was Picquart who had first discovered evidence that Esterhazy was the writer of the *bordereau*, the document on which the conviction of Dreyfus rested. He had been the chief witness for the prosecution in the Esterhazy court-martial, and a prominent witness for the defense in the first Zola trial. After Esterhazy's acquittal he had been placed on the retired list. He was now arrested, July 13, for divulging state secrets. Meanwhile the other chief disturber, Zola, had been convicted on the 9th of libelling the handwriting experts who had given testimony regarding the *bordereau;* and on the 18th he was sentenced (by default) on his second trial for libelling the Esterhazy court-martial. On August 30 the entire situation was changed by a startling event. Under a searching examination, Lieutenant-Colonel Henry of the general staff, the chief witness against Dreyfus in 1894, confessed to Cavaignac that he had forged the document of which Picquart had disputed the authenticity. Placed under arrest, he committed suicide. Public opinion was profoundly affected; the majority of the cabinet were convinced that revision was now a necessity; but the military authorities continued their resistance. Cavaignac declared that he was still convinced of Dreyfus's guilt, and resigned from the cabinet September 3. General Zurlinden, his successor, and M. Tillaye, the Minister of Public Works, followed his example on the 17th. Their places were filled by General Chanoine and Senator Godin. General Zurlinden was reappointed military governor of Paris. On the 26th the ministry decided that Mme. Dreyfus's demand for revision should be submitted to the Court of Cassation. — In the meantime, on September 21, when Colonel Picquart was placed on trial, the government prosecutor asked for a postponement, on the ground that General Zurlinden had ordered the prosecution of the accused on the graver charge of having forged evidence against Esterhazy. The postponement was granted; and Picquart, publicly protesting that he had no intention of committing suicide, was removed to prison. Zurlinden's action was connected, in public opinion, with evidences of suspicious activity on the part of the Napoleonist pretender and with the massing of troops in and about Paris (ostensibly because of a great strike) and was thought to indicate an impending *coup d'état*. — Upon the reassembling of the legislature, October 25, the Moderate Republicans, offended by the appointment on the 22d of a

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

large number of Radical prefects, decided not to support the Brisson ministry on internal questions. On the same day the ministry was sharply attacked by the anti-revisionists. General Chanoine declared from the tribune that he was of the same opinion as his predecessors in the War Ministry, and announced his resignation. A resolution calling upon the government to "end the campaign of insult against the army" was rejected by the Premier, and was carried, amid great disorder, by a vote of 296 to 243; whereupon the ministry resigned. The chamber then asserted, by a nearly unanimous vote, the "supremacy of the civil power." The union of all Republicans was urged; and on the 31st **a new cabinet** was constructed, which included several Moderates. M. Dupuy became Premier and Minister of the Interior; MM. Delcassé, Peytral, Lockroy and Viger retained their portfolios; the other members were: Lebret, Justice; Leygues, Education; de Freycinet, War; Guillain, Colonies; Delombre, Commerce; and Krantz, Public Works. On November 4 the ministry received a vote of confidence, 429 to 64. One of the first official acts of the new civilian War Minister was to remove the chief of the general staff. — During October a reporter appointed by the Court of Cassation investigated the demand for revision. His researches were impeded by the attitude of the War Ministry, which withheld the "secret" Dreyfus documents, on the grounds that they did not pertain to the proceedings of 1894 and that some of them, if divulged, would lead to war with a foreign power. (These last documents were understood to be letters, or photographs of letters, from the German Emperor. The *Cologne Gazette* declared in September that they were forgeries.) On October 27 and 28 Reporter Bard submitted to the court, in open session, **the grounds for revision**. The most important were: (1) Henry's confessed forgery, which, though committed in 1896, discredited the evidence given by him in 1894; (2) a conflict of expert testimony regarding the *bordereau;* and (3) letters of Esterhazy, indicating that the *bordereau* was really written by him. On the 29th, the court decided that the demand for revision was to be admitted; that the material before the court was insufficient for a decision; that a supplementary investigation should be made; and that pending this investigation the sentence against Dreyfus was not to be suspended.

GERMANY. — The Imperial and Prussian parliaments each completed this year the quinquennial period; and the most important occurrences of the six months were the elections of the new legislatures. **The new Reichstag** was chosen June 16 and 23. The Conservatives suffered losses; the Liberals merely held their own; and the Centrists, who made gains, hold more securely than ever the balance of power. The Agrarian League, which was expected to do great things, carried but four seats, and these only on the second balloting, a result which was attributed to the high price of wheat. The Social Democrats, who polled 28 per cent of the total vote, gained in the rural districts and increased their representation from 48 to 56. The Poles lost a third of their seats. — The Prussian Landtag,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

immediately before the close (May 18) of its final session, passed laws: increasing the salaries of the Protestant and Catholic clergy; appropriating 5,000,000 marks to improve the dwellings of laborers employed by the state; and permitting peasant proprietors in Westphalia to entail their estates. This last law reëstablishes the ancient custom of the province and is designed to prevent excessive subdivision of agricultural holdings. — **The new Landtag** was chosen early in November. The Radicals gained fifteen seats, mainly at the cost of the Conservatives; but the latter remain by far the strongest party in the chamber, and can control it by coöperating either with the Centrists or with the Liberals. The Radical gains were attributed in part to a speech delivered by the Emperor at Oeynhausen in Westphalia, September 6, in which he informed the public that a bill was in preparation and would be submitted to the Reichstag this year, punishing with imprisonment at hard labor any person who should try to hinder a German workman who was willing to work or should incite him to strike. — **Prince Bismarck** died July 30. His funeral, in accordance with his wish, took place at Friedrichsruh, and was of the simplest character. Memorial services were held in all parts of Germany and in many foreign cities.

AUSTRIA-HUNGARY. — The fiftieth year of the Emperor's reign was darkened, not by domestic grief only, but also by persistent political anxieties. The German-Czech quarrel continued to paralyze the Austrian Reichsrath and to impede the renewal of the compromise union (*Ausgleich*) with Hungary. — Dissensions between the government and the German town of Gratz in Styria, which ended in the suspension of the municipal council, provoked new riots in **the Reichsrath** on June 7. On the 13th the deputies were sent home; in July the necessary appropriations were made by decree; and on the 28th the session was declared closed. During this month the ministry endeavored to arrange for a further modification of the language ordinances, that should be acceptable both to the Czechs and to the moderate wing of the German party, representing the German landed interests in Bohemia; but the negotiations were fruitless. — In the same month (July) **the Hungarian government,** in accordance with the act passed in January, issued an elaborate tariff bill, to be submitted to Parliament in case the *Ausgleich* should fail to be renewed. This tariff created great consternation among the Austrian manufacturers, and, on reflection, was considered to have been framed for that purpose. — **The Delegations** met at Pesth, May 9. The budget submitted to them called for increased military and naval appropriations, and for a supplementary credit of 30,000,000 florins to cover military expenditures in 1897 and 1898. It was passed by the Austrian Delegation on the 26th; and by the Hungarian (with a demurrer regarding the naval plans of the imperial government) on the 27th. During May and June the joint commission on the quotas of the two parts of the empire held several meetings but reached no agreement. In August ministerial conferences were held at Vienna. It was reported that the Hungarians desired to adjust their relations with Austria on the basis

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of economic independence and a five-year commercial treaty; while the Austrians desired the renewal of the *Ausgleich* for another year, and proposed again to secure it, as far as their half of the empire was concerned, by decree. It was finally decided that one more effort should be made to secure the approval of the Reichsrath. At the same time an agreement was reached concerning the course to be pursued if the Reichsrath remained obstinate; but the terms of this agreement were not revealed. — **The Reichsrath** was called together at the close of September, and the *Ausgleich* bills were laid before it. A new conflict at once developed. The German party demanded an explanation of the ministerial arrangement of the preceding month. This Count Thun refused to give; and in consequence of his refusal Minister of Commerce Bärnreither resigned from the cabinet. At this point, however, the Germans suddenly changed their course; abandoned the policy of obstruction; and voted to proceed to the consideration of the government bills, which were accordingly referred to a committee of 48, representing all factions. This change was understood to be based on purely tactical considerations: obstruction was abandoned because the government obviously counted on obstruction. Late in October, however, a division manifested itself within the German party: the Constitutional Landed Interest (*Verfassungstreuer Grundbesitz*) voted in committee against the rejection of the *Ausgleich* bills and for their reference to subcommittees. Early in November, amid great disorder, the Reichsrath rejected a proposal to impeach Premier Thun. At the close of this RECORD it was debating the impeachment of ex-Premier Badeni. — On October 11 the quota commissions met again in Pesth, but again failed to agree. — **Anti-Semitic riots** broke out in Galicia in June. The peasants invaded the towns, mobbed the Jews, pillaged and burned shops and destroyed some public buildings. There were two outbreaks; the second and more serious, at the close of the month, extended over more than thirty villages and cost at least sixteen Jewish lives. The disorders were suppressed by troops, who killed a number of the rioters. On June 28 martial law was proclaimed in two districts; and in thirty-three others, including all western and a part of eastern Galicia, the constitutional guaranties of personal liberty were suspended (minor stage of siege). — The assassination of the Empress (see p. 763) led, in many parts of the empire, to demonstrations against Italians. At Triest six deaths occurred in a German-Italian street fight; and an Italian peddler was killed by a mob at Gratz.

RUSSIA. — In striking contrast to the Czar's pacific proposals is the energy with which the Russian navy is being strengthened. During the period under review 90,000,000 rubels were appropriated for new war vessels. One formidable battle-ship was launched, and work was begun on several cruisers. Orders for a number of vessels were placed in foreign countries. — At the same time, to encourage the development of the merchant marine, ships purchased for foreign trade were made duty-free, and the duty on ships intended for internal trade was greatly reduced (law of May 27). —

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Work was actively pushed on the Siberian railway, and it was stated that this great undertaking would be completed in 1904. It was also reported that plans had been perfected for the construction of a ship canal, of the same breadth and depth as the Suez Canal, from the Baltic to the Black Sea. — It was announced in the summer that the Russian judicial system had been extended to the Central Asiatic provinces, but without the jury, and that the Russian military system was to be introduced into Finland. — In consequence of the failure of the crops of the previous year, there was, in some parts of European Russia, a partial famine, with hunger-typhus cases. There was also a dearth of seed-corn and of fodder for the live stock. During the summer there were protracted droughts; and at the close of September it was reported that the crops in Northern and Central Russia were a complete failure, and that those of Southern Russia were below the average. Relief efforts were instituted on a large scale, both by the Red Cross Society and by the government; but the government aid was said to be tardy and ineffectual. Legislative relief also was attempted: a law of June 18 lessened the duty on agricultural machinery and put fertilizing materials on the free list. — On May 30 a small Russian garrison at Andijan, in the province of Ferghana, Turkestan, was attacked by a large body of natives, and a score of the soldiers were killed. The insurrection was promptly crushed: six of the ringleaders were hanged and forty-five other rebels were imprisoned at hard labor. It was soon discovered that a general Mohammedan uprising had been arranged, which the premature attack upon Andijan had frustrated. A rigid investigation was followed by eighteen additional executions and three hundred sixty-two transportations.

ITALY. — The riots and revolutionary movements described in the last RECORD were followed by slighter disturbances in Piedmont and at Naples; but before the middle of May the energetic intervention of the military, and the imposition of martial law in the province of Naples as well as in Tuscany, reëstablished order throughout the kingdom. — Conclusive evidence that the insurrection was socialistic in its character, and a prevalent belief that it was in part inspired by clerical agitation, led the cabinet to consider repressive legislation. Irreconcilable differences of opinion regarding the measures to be adopted soon manifested themselves, and on June 1 the fusion ministry of Rudini was for the fifth time reconstructed. Upon the reassembling of Parliament, June 16, the Premier submitted to the Chamber a number of bills for the protection of the social order. A motion was offered declaring lack of confidence; but before this came to a vote the ministry resigned. Attempts to construct a Conservative cabinet proved unsuccessful, and at the close of the month **a Liberal ministry** was formed under the premiership of General Pelloux. General di San Marzano, War Minister, was the only member of the Rudini cabinet who kept his portfolio. Foreign Affairs were intrusted to Admiral Canevaro; and Admiral Palumbo was made Minister of Marine. The other members were: Finocchiaro-Aprile, Justice; Vacchelli, Treasury; Carcano, Finance;

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Baccelli, Education; Lacava, Public Works; Fortis, Agriculture and Commerce; Nunzio-Nasi, Posts and Telegraphs. The new cabinet was well received, not only by the Liberals, but also by the Conservatives, who found a guaranty of order in the unusual representation awarded to the military. On July 12 the chamber passed the **Social Defense bills.** The ministry had previously withdrawn several of the Rudini bills, which limited the freedom of the press and of education and restricted the right of association; but it asked and obtained the renewal of the Compulsory Residence Act of 1894; the postponement for a year of provincial and communal elections; and authorization to uphold, modify or abrogate the state of siege and to place the railway, post and telegraph services under military discipline. — During the summer, courts-martial, sitting at Milan, Florence and Naples, sentenced to deportation or imprisonment hundreds of persons accused of instigating or taking part in the May riots. Among the condemned were many journalists and also several deputies, prosecuted by permission of the Chamber.

SPAIN. — The defeat of Spanish arms and the dismemberment of the Spanish empire left the government, for the time at least, unshaken. The Conservatives, who were in the minority, could not assume the conduct of affairs without a dissolution of the Cortes and a general election; and they had no desire to relieve the Liberal Premier of his responsibilities. Four of his colleagues abandoned Sagasta in May; but their places were filled. The new ministers were: Almodovar del Rio, Foreign Affairs; Auñon, Marine; Giron, Colonies; and Gamazo, Public Works. No further change occurred until the close of October, when Señor Gamazo resigned. — **The Cortes** adjourned June 24 and reassembled September 5. A bill was then submitted to them, authorizing the government to renounce sovereignty in the colonies, in accordance with the peace preliminaries agreed upon with the government of the United States. The discussion gave rise to much recrimination and disorder; but the greater number of the Conservatives continued to support the government, and the bill was passed on the 13th. On the following day the session was suspended. — **The expenses of the war** were met in part by patriotic subscriptions, but chiefly by increased taxation and by an internal four per cent loan of 1,000,000,000 pesetas. The loan was managed by the Bank of Spain, which furnished the government with money as it was needed. In June the condition of the bank gave rise to apprehensions. Paper money was presented for redemption in such large sums that the coin reserve was seriously reduced. At the same time there were general complaints of scarcity of silver coin, showing that the silver drawn from the bank was being hoarded or exported. On June 12, accordingly, the government prohibited the export of silver coin. In November the Spanish treasury was obviously in sore straits, and mutinies were reported among the unpaid troops in Cuba. — Spain itself remained generally tranquil. There were occasional bread riots through the summer; and there were indications of Carlist activity on the northern frontier.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

These, or the impending peace negotiations, caused the government, on July 15, to suspend throughout the kingdom the constitutional guaranties of personal liberty and of freedom of the press and of assembly. There were, however, no signs of popular unrest; and it was said that the people felt little regret at the prospect of losing the colonies. Their indifference or resignation was in part explained by statements published in Spain regarding the cost, in money and in men, of the attempt to suppress the Cuban insurrection. It was estimated that from March, 1895, to June, 1898, nearly two milliards of pesetas had been expended; and it was affirmed that, of 200,000 Spanish soldiers sent to Cuba, more than 55,000 were dead and nearly 29,000 had returned invalided.

MINOR EUROPEAN STATES. — Elections held in **Belgium** May 22 and 29 slightly increased the large Clerical majority in Parliament. — Queen Wilhelmina of **the Netherlands** came of age August 31, and was enthroned amid demonstrations of great loyalty and affection September 6. In June the States General adopted a bill making personal military service obligatory upon all citizens except ministers of religion. — In connection with the Russian Emperor's peace proposals, the Norwegian government suggested, in October, that an effort should be made to induce the powers to recognize **Sweden and Norway** as neutral states. In Norway the separatist policy remained dominant; at the opening of the Storthing, October 12, it was announced that Russia had proposed a revision of its commercial treaties with Sweden-Norway, and that the Norwegian government had announced its readiness to negotiate a separate Norwegian-Russian treaty. — In **Switzerland** the Federal Assembly passed June 20, for submission to the people, constitutional amendments extending the competence of the federal legislature over the entire field of civil and criminal law, but leaving to the cantons the organization of the courts and the regulation of procedure. At its autumn session the Assembly adopted illness and accident insurance laws, including a special law for the governmental insurance of military persons. — In **the Balkan peninsula**, Montenegrin agitation for a greater Servia (to be established by bringing Servia, Bosnia and Herzegovina under the rule of Prince Nicholas) and alleged arrangements between Prince Nicholas and Prince Ferdinand of Bulgaria for the delimitation of their spheres of influence might have caused greater uneasiness but for the general conviction that Russia desired no disturbance of existing conditions. New evidence of Russian predominance in the Balkan states was afforded by ceremonial visits of the King and Crown-Prince of Roumania and of the Prince of Bulgaria to the Czar, and by Prince Ferdinand's offer to reinstate in the Bulgarian army twenty-one officers concerned in the conspiracy against his predecessor, Prince Alexander. — Both in Bulgaria and in Servia the finances were increasingly disordered by extravagant expenditures met by issues of paper money. In **Servia** the arbitrary rule of ex-King Milan produced widening disaffection. The Radical leader, Pashitch, acquitted of lese-majesty May 18, was again placed on trial June 2 (the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Court of Cassation having quashed the acquittal), and was sentenced to imprisonment. This governmental victory was followed in the summer and autumn by the arrest of numerous Radical politicians and journalists and the retirement of many army officers. Elections held June 4, under military supervision, produced a Moderate Liberal majority in the Skupshtina, and in July a stringent press-law was passed. The Liberals, however, began to refuse further support; and an ordinance, issued August 6, placing the appointment of communal officials in the hands of the ministry, drove them into declared opposition. — In **European Turkey**, close on the Montenegrin frontier, one of the chronic blood-feuds of the country widened, early in June, into a small war between Mohammedans, Albanians and Servian Christians. There was sharp fighting near Berane for a week: several Christian villages were burned and large numbers of Christians were driven over into Montenegrin territory. Turkish troops restored order, and the Sultan promised punishment of the civil authorities at Berane, amnesty to all Christians and indemnity for the houses destroyed. During the summer and autumn there were less serious but continual disturbances on the Servian frontier, especially in the vilayet of Kossova. — The abolition of local exemptions has increased the annual recruitment of the Turkish army by about 40,000 men.

AFRICA. — The control of the Upper Nile was wrested from the Dervishes in a battle fought September 2 at Omdurman, the new city opposite the ruins of Khartoum. The Dervish losses were nearly 30,000; those of the British-Egyptian army were less than 400. The Khalifa escaped, but the majority of his adherents submitted to British-Egyptian rule. — A few days later General Kitchener was informed of the **French occupation of Fashoda**, 350 miles farther up the Nile; and on reaching that point, September 19, he found that Major Marchand, after establishing posts in the Bahr-el-Ghazal, had in fact hoisted the French flag at Fashoda, July 10, and was holding the position with a small force of Senegalese soldiers. General Kitchener at once protested, in the name of the British and Egyptian governments, against the occupation of any part of the Nile valley by France; hoisted the Egyptian flag, not only at Fashoda, but farther up the river at Sobat; and, leaving garrisons in both places, returned to Khartoum. The British government approved his action and demanded the withdrawal of the French forces not only from Fashoda, but from the Bahr-el-Ghazal, asserting that the entire Upper Nile was rightfully Egyptian and had reverted to Egypt by reconquest. The French government maintained that Egypt had abandoned its sovereignty in the Equatorial Province in 1884; that the territory had since that time been open to occupation; that Great Britain had itself occupied, not in the name of Egypt, a part of it since 1890 and had agreed that Italy and the Congo State should hold other parts. The French intimated further that Egypt could acquire no title by reconquest without authority from the Sultan. They finally indicated that they would withdraw Marchand, if assured that

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

French Congo should receive an outlet to the Nile. The British, however, demanded and, early in November, obtained unconditional withdrawal. These negotiations were made public and were accompanied by active naval preparations on both sides. At the close of this RECORD the Bahr-el-Ghazal question was still unsettled. — Other British-French differences, in **West Africa**, were adjusted June 14 by a convention defining, on the basis of reciprocal concessions, the northern and western boundaries of the Gold Coast Colony and of Nigeria; facilitating the transport in bond of French goods through Nigeria, by a thirty-year lease to France of two landing-places on the lower Niger; and giving British traders, for the same period, equal privileges with the French in Dahomey and on the Ivory Coast. It was reported in September that the unpublished British-German agreement had fixed the boundaries between the Gold Coast and Togoland. — A native insurrection, which cost the lives of a number of American missionaries, white and colored, of many traders and of hundreds of friendly blacks, broke out in the Sierra Leone hinterland early in May, and was not suppressed until October. The immediate occasion of the uprising was the imposition of a small hut-tax, but the cause was said to be the discontent aroused by the suppression of the slave trade. — In the upper Niger valley, the French defeated King Samory in September, taking 5000 prisoners; and in October they captured the King himself. — Of other conflicts with natives the most serious were those sustained by the Belgians, with Dervishes and with Congolese rebels in the eastern portion of the Congo State; and by the British, with the mutinous Sudanese in Uganda and with the Somalis in the northern part of the East African Protectorate. — **The Transvaal** government published May 27 the text of a dispatch sent to the British Secretary for the Colonies, in which it disputed the existence of British suzerainty since the convention of 1884, but declared its intention to abide by the provisions of that convention. Reports that Germany had withdrawn opposition to the acquisition of Delagoa Bay by Great Britain alarmed the Boers, but pleased the Uitlanders, who are still dissatisfied with the Boer régime. — General elections in the **Cape Colony**, held in August and September, resulted in the defeat of the Rhodes party, the Afrikander Bond obtaining a narrow majority in the Assembly. On October 12 the Bond leader, Mr. Schreiner, formed a ministry.

THE ORIENT. — From **China** Great Britain obtained June 9, a lease for 99 years of 200 square miles of territory around Hongkong, with jurisdiction over the entire area, except within the native city of Kaulung. This was regarded, in Paris, as the British answer to the concessions previously obtained by France; and it closed, at least for the period under review, the series of territorial cessions that began in November, 1897. The economic exploitation of the empire, on the other hand, made rapid progress. European capitalists, backed by the influence of their respective governments, scrambled for railway and mining concessions, or for the opportunity to control such enterprises as mortgagees. Noteworthy features of the struggle

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

were: the harmonious coöperation, from the outset, of the Russian, French and Belgian claimants; the tardier but increasing coöperation of the British and Italians with the Germans; and the progress made towards a **delimitation of spheres of influence.** Thus Germany defeated the concession to a Chinaman of a railway from Tientsin to Chingkiang, by insisting that German capitalists must have the first chance to build railways through the province of Shantung; France objected to the construction, with British money, of a short line from Canton to Kaulung, because all Kwangtung was within the French sphere; and Russia energetically resisted, on similar grounds, a loan from the Hongkong and Shanghai Bank to the Chinese government for extending the Peking-Shanhaikwan line to Niuchwang. Great Britain, indeed, argued for equal privileges, and the Niuchwang loan was made an international issue; but Great Britain arranged with Germany for joint construction of the Tientsin-Chingkiang railway, with exclusive German control of the Shantung section; and when the British ambassador discovered that a Belgian railway from Chingting to Hankau was in reality to be a Russian line, the British sphere of influence on the Yangtse was discovered to be menaced, and another international issue was created. On this question of interest the British suffered defeat. On the question of principle, concerning the Niuchwang extension, they prevailed; but the Russian reply was the occupation of Niuchwang, October 15, by armed force. — As regards trade, Great Britain adhered to the open door; and Germany, on September 2, proclaimed Kiaochau a free port; but Russia, after withdrawing vexatious passport regulations at Talienwan, was reported to be buying up all the land suitable for business. — In June China promised to employ only Russian military instructors in the province of Shansi, an arrangement which extended the Russian sphere to the Yellow River. — **Chinese patriotism** seems at last to be aroused. In June it was reported that a Society of National Preservers, advocating the adoption of Western methods, was rapidly extending; but in May an anti-foreign Patriotic Society was started by the *literati*, and this apparently made more converts. The six months were marked by unusual disturbances, mainly directed against foreigners. Besides numerous riots, in which some lives were lost and much property destroyed, there were insurrections in various parts of the empire. The most important was that of the Triad Society, which has been in opposition to all foreigners, but chiefly to the Manchu dynasty, for two hundred years. This insurrection broke out at the end of June in Kwangsi, where the Taiping rebellion started; and, although repeatedly suppressed in official reports, it extended in the summer to the neighboring provinces. — **The Emperor**, unlike his people, displayed a pronounced preference for European civilization; called upon his officials to abandon the old ways and adopt foreign methods; decreed, during the summer and early autumn, numerous reforms in army, the civil service and the educational system, all on occidental lines. In September he established an official organ, the *Chinese Daily News*.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and proclaimed the freedom of the press. On September 14 the Japanese statesman, Marquis Ito, came to Peking, for the purpose (it was said) of negotiating an offensive and defensive alliance between the two empires. On the 22d there was **a palace revolution.** The Empress-Dowager assumed the regency; executed, banished or degraded all officials who had shown sympathy with the imperial reforms; and rescinded all the reform edicts. The people of Peking exhibited their satisfaction by throwing dirt and stones at foreigners; and early in October small bodies of Russian, British, German and French marines and of Russian Cossacks were sent to the capital to guard the legations. Foreign gunboats assembled at Tientsin, and foreign cruisers at Taku. — **The Japanese Parliament** passed a law putting the new civil code in force; rejected the governmental scheme of taxation; and was dissolved June 11. As the Liberal and Progressive factions had united, the Mikado accepted the resignation of the Ito cabinet and, at the advice of Marquis Ito, intrusted the leaders of the new Constitutional party, Counts Okuma and Itagaki, with the formation of a government. In the September elections the Constitutionalists carried five-sixths of the seats. In October, however, the combination broke; the Okuma-Itagaki cabinet resigned; and early in November Field-Marshal Yamagata formed a non-political ministry.

LATIN AMERICA. — The revolutionary movement in Venezuela, started by General Hernandez last March, ended with his defeat and capture June 13. Attempted revolutions were crushed in San Domingo in June, in Uruguay in July, in Guatemala in August. Peaceful changes of administration occurred in Colombia, in Brazil and in the Argentine. The quarrel between Nicaragua and Costa Rica was at least postponed; and grounds of future quarrel were removed by a treaty between Chile and Peru, settling the Tacna-Arica question, and by a treaty submitting the determination of the boundary between Brazil and French Guiana to the arbitration of the Swiss Federal Council. The protracted boundary dispute between Chile and the Argentine was also brought nearer settlement. A joint commission defined the points at issue; and it was agreed that the boundary south of 26° 52′ 45″ south latitude should be fixed by Queen Victoria, as provided in the treaty of 1896, and that the boundary north of that line should be determined, if agreement proved impossible, by the American minister to the Argentine. — In July Italy sent a squadron to Cartagena and forced the Colombian government to accept, in its entirety, the award made by President Cleveland, in 1897, in the Cerrutti case. — A constitution modelled on that of the United States was adopted in August by a convention of delegates from Nicaragua, Honduras and Salvador, to go into effect November 1. The new federal state, which replaces the confederation of 1895, is styled the United States of Central America. Pending the election and installation of a president, the federal powers are vested by the constitution in three commissioners.

MUNROE SMITH.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED